

the student loan program, bring it all under one umbrella. At that time, everything was sailing along fine until the chief person in that issue became the focal point and a riff divided us all over (in my judgment) not the issue but the key person, a former member of another body of this legislature and it was a personality clash. I know that there are many who have been following this that will agree with me that it is pretty much the same thing that has happened here. If another gentleman, other than Rob Gardiner, had been the spokesman, if Mr. Winchester had been the spokesman, a very quiet, calm, unassuming, unlike Mr. Gardiner who is very brash at times, very self-confident and did not make a good impression on certain members of the Education Committee, as a matter of fact, he offended one of our chairs and I think she had a right to be offended at the time, I don't think we would be where we are now. A lot of the little problems are technical problems that can be worked out. If you as legislators in the State of Maine are looking for an item that, when you look back upon your services here in the House of Representatives and want to find something that you did that made a lot of sense, was good for the State of Maine, in my judgment, this is that issue.

The proposal to unify Maine Public Broadcasting organization has been developed to further the ideal of excellence in providing this most important educational service. It will enable public television and public radio to increase public confidence in the system. It will enable them to purchase and produce higher quality programs. It will help them raise funds more effectively and operate more efficiently and help unify the people of Maine and reduce the long-term cost of service.

I agree that there are some minor technical problems that still have to be worked out. I am confident that two boards have thought all that over. I am confident that the new board will work those out.

The University itself has been brought in occasionally and some feel that they have to be protected. I talked to former Representative Lisnik, the University isn't asking to be defended here, the University understands what it is doing, knows what it is doing. When we talk about one of those agencies giving up their real property and whatever, both are giving up their real property to this new board and this new organization.

I urge you to support this as you did the other day. Mr. Speaker, I request a roll call.

The SPEAKER: The Chair recognizes the Representative from Orono, Representative Cathcart.

Representative CATHCART: Mr. Speaker, Men and Women of the House: I rise to ask you to vote against the enactment of this legislation because I believe that this is too much, too soon. I suspect that in the long run, I may believe that the merger is a good idea, but there are too many questions that have not yet been answered. I have too many concerns among my constituents for me to support this.

The employees of MPBN, as you know, were told last summer that this might happen in two year's time and now less than a year later, we are about to vote it into existence. They have had no say in this and they have not been kept informed of what is going on. They were not notified that there would be a public hearing on the bill and feel that they have had no chance to approach the legislature. So, I am trying to represent them as well as other

constituents, mostly University of Maine faculty, who have told me that they are really concerned and would like to see this studied before it is done.

There was an editorial that I read a couple of days ago, I believe it was in the Lewiston paper and the editorial writer accused the Education Committee of this legislature of trying to block this legislation, of stalling, of holding it up and I couldn't believe that because the legislation was only printed two and half weeks ago on March 9th. I think the Education Committee has done an excellent job with a complicated piece of legislation. They insisted on having more information even though the people pushing for the merger were reluctant to give that information. It is not that I don't trust the committee, I just think that there are still questions. I have concerns, it seems like in a way it is a north/south issue. I heard that most of the fund raising money comes from southern Maine and yet the station I care about is in northern Maine. I want to be sure my people up north get equal time and equal representation in public broadcasting. So, I would urge, for those reasons, that we vote this down so it can be studied and brought back to us at a later date.

The SPEAKER: The Chair recognizes the Representative from Orono, Representative O'Dea.

Representative O'DEA: Mr. Speaker, Men and Women of the House: I would ask you to join in voting against enactment of this bill today. As my good friend Representative O'Gara from Westbrook pointed out, there are some minor technical concerns with this bill. I share some of those minor technical concerns especially since the original L.D. is three pages long. We were told that the answer to our concerns, why in the bylaws and in the articles of incorporation, I would suggest that if you look through them, you would find that there is nothing in there that is binding and that it is all subject to change at any time in the future.

The major issue here for me, as one representative, is whether or not we should be turning these assets over and they are sizeable assets, \$8 million to \$10 million worth of state assets, and a substantial appropriation to a private corporation. There is some question existing in the minds of at least a few of us as to whether or not this shouldn't have been turned over to a public corporation, a public non-profit corporation as opposed to a private one. For that reason, I would ask you to please vote against enactment of this today so that we can put this thing on the slow track and do it the right way.

The SPEAKER: The Chair recognizes the Representative from Bangor, Representative Lebowitz.

Representative LEBOWITZ: Mr. Speaker, Ladies and Gentlemen of the House: I wish to concur with my two colleagues from Orono in what they have just said. In effect, the employees at MPBN in Orono were not aware of what was taking place until shortly before the trustees met on this matter. It seems to me that, even though it might have been discussed, it was not discussed in the light that it should have been. I really feel that it would not be in the best interests of this body to enact legislation with not enough information.

In addition to that, I think that the northern part of the state is well served by the MPBN station and I feel that it might not get the same criteria as the station in Lewiston if the merger goes through.



I really feel that it needs a lot more work before we put our stamp of approval on it. I urge you not to vote for this piece of legislation.

The SPEAKER: The Chair recognizes the Representative from Winthrop, Representative Norton.

Representative NORTON: Mr. Speaker, Ladies and Gentlemen of the House: I was on the subcommittee, let alone the committee, that worked on this legislation and from what I put together after lengthy, lengthy, lengthy discussions and wanting to know those same basic questions that the other committee members needed to know, after all was said and done, I am convinced that the employees in the public sector of this merger are in more danger of losing their jobs without the merger than they are with it because the budget situation at the University isn't exactly overflowing with money. I have known the gentlemen on both sides of the fence for years and I would trust either one with anything of importance that I have and be entirely confident of their honesty and their ability. The Director at MPBN is a long time friend of mine and he says this merger is 25 years overdue. The process is worthy of consideration.

Employees in a situation where they don't know those details are bound to be nervous and I feel that they have every right to be that way. I can't vouch for how they were dealt with or what went on but I can say that I have the utmost confidence that the public interest is also maintained in the bylaws of this organization. You do not have to worry about the public assets. The Chancellor of the University of Maine is on that board, there are other public members. This legislature can intercede if it had to. This is a law, we do not lose contact forever although we don't want to ever micromanage. I was convinced that the interest of northern Maine, where I grew up, in southern Maine where I have an interest, in central Maine where I live, are met in this legislation. I would urge passage of it with confidence.

The SPEAKER: The Chair recognizes the Representative from Easton, Representative Mahany.

Representative MAHANY: Mr. Speaker, Men and Women of the House: I had originally no intention of speaking on this piece of legislation. I would simply like to point out that this is a perfect example in my judgment of why we should not say one thing to the employees, as evidently management did, telling them at first it would be two years and then going ahead and disregarding that statement to them and creating all kinds of uneasiness and maybe some mistrust by simply (in a sense) not taking a promise to them which at least they perceived as a promise, not taking it seriously and pushing ahead to get this piece of legislation passed sooner than they had expected. They probably feel left out of the process.

While I probably will vote for this piece of legislation, I am going to listen to the rest of the debate, I think that is a practice, namely the practice of kind of placating employees and then proceeding to ignore them, that is a practice which gets us into a situation like this, which we really need to avoid.

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Boutilier.

Representative BOUTILIER: Mr. Speaker, Men and Women of the House: I just want to state that I am in favor of this bill and I think the title is

impelematic of what is being done here and it is an Act to Improve Educational Public Broadcasting Statewide. I think that is going to happen, it is going to involve a better and more efficient use of existing resources and the elimination of duplication of services, fact fund raising and all of those improvements will be done to the betterment of public educational television in the State of Maine. I urge you to vote in favor of this measure.

The SPEAKER: The Chair recognizes the Representative from Westbrook, Representative O'Gara.

Representative O'GARA: Mr. Speaker, Ladies and Gentlemen of the House: First of all, I want Representative Mahany to know that I agree with her. I thought it was handled badly, it was an unfortunate situation, it shouldn't have been done that way. I do hope that will not serve to cause her or anybody else to vote against this.

Two things I want to make sure you understand about going from public to private. First of all, this new board will be subject to the FCC and all other regulatory boards that the two boards now serving you are subject to. So, I don't believe there is any concern over how that board will be run, it will have to follow those particular guidelines.

One of the questions that I don't recall Representative Handy addressing when he went on with the length of items from the letter back to Representative Oliver. Perhaps he just forgot to mention this one. I would like to share a bit of it with you. "Would there be any problem with studying this and putting together a comprehensive proposal for unification to be submitted to the legislature next January?" The question was answered thusly. "We are both extremely concerned" (both, the board that we are talking about) "that extended discussion of such a major change would have a severe negative effect on our contributors. By putting the future of both stations in question for another year, we would undermine the viewers sense of commitment. Reduced revenues would be an inevitable result."

Second, WCBW was on the verge of launching a major capital campaign when the unification agreement began to come together last summer and fall. WCBW's Board of Trustees" (if this doesn't go through) "will probably want to launch their campaign this spring. Because capital campaigns of this magnitude normally takes three years to complete, unification would have to wait until 1995 or later.

Another problem with delay" and this has to do with staff that you have been hearing about today, "we know our employees are concerned about change - understandably, since they have devoted their career to these organizations. We are also concerned for their welfare. Recently, some staff have expressed concern that a one year study would stretch out the process and make their lives more difficult. A study would create significant uncertainty for them and they recognize that there could be serious negative effects on the fundraising efforts. Most of the staff are coming to realize that the employment assurances are sufficient protection and, as you saw at the work session when the MPBN staff members were asked what they thought of unification in general, there is very broad support for what we are proposing."

The SPEAKER: The Chair recognizes the Representative from Stockton Springs, Representative Crowley.

Representative CROWLEY: Mr. Speaker, Ladies and

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Gentlemen of the House: I hesitate to get up here because I spoke to this the other day and we had complete agreement on it and I thought we were moving along finally.

Just to assure you of one thing — we are going to take Channel 10 and Channel 12 and we are going to put them together and make them the Maine Public Broadcasting Corporation. This is what the bill does, something that should have been done years ago to have competing educational television stations in Maine is not sensible. New Hampshire doesn't do it and we shouldn't do it either.

As for the idea on the thoughts on the personnel, we met with some of the personnel, I met with personnel from both sides and to say that they weren't considered — we even wrote an amendment to take care of the personnel so that they would be assured of their jobs. It is right here in the bill if you read Section 4 of the amendment. So, I think we have covered all the ground.

It was a very unhappy experience the way the bill came to us and they tried to ram it through because they didn't understand the process, probably. We straightened all that out and I think now with the amendment that I put on and that Representative Handy put on and the Committee Amendment, this bill is in very good shape. I hope you will vote for it.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Oliver.

Representative OLIVER: Mr. Speaker, Ladies and Gentlemen of the House: This was one of those situations which was very difficult before the committee. A major transition, a major merger was taking place. We had a bill that was not too thick and not too complicated. There certainly was a percentage of elitism in the presentation from the management end and all of us recognized, as we do in other bills, that there was a slowness in presenting information that was needed. We had to go back and ask for transitional plans, the Charter, the bylaws, flow charts, but that doesn't negate the fact that the concept was correct, that personalities were getting in the way as they do sometimes, that some of the presenters did not know the process, that one of the presenters even insulted our distinguished chair, Representative Crowley. But, as you saw, Representative Crowley has gone past that and is supporting this legislation. Crucial and important questions had to be asked, especially on protection and guarantee to workers and they were asked. I had written a letter, we had a subcommittee formed, management and labor got together and came back with new suggestions. So, I am satisfied because I am satisfied with the concept. In talking to the workers and the management, everyone is buying in to the inevitable need to consolidate and save money, to consolidate and combine technology — just the cost of programming — two public broadcasting entities in the State of Maine paying duplicative costs for national programming makes no sense. So, I am hoping with the slowness of getting information, some of the elitism, some of the factors that had to be asked, that we go beyond that because what we have now, thanks to asking additional questions, thanks to the union negotiating very strongly with management and coming back with new plans and thanks to the amendments offered in this body, we have a very tight plan, a merger that makes sense.

I would also remind you that we are a committee that takes labor to heart. When it comes to the

working person, we ask a lot of questions and we demand answers. We got a guarantee from labor, MTA negotiating a one year guarantee that would guarantee the workers' jobs for a year but more than that would guarantee a 20 percent benefit package that could be negotiated up but could not be negotiated down. I hope you can support this merger.

The SPEAKER: The Chair recognizes the Representative from Bethel, Representative Barth.

Representative BARTH: Mr. Speaker, could the Clerk please read the Committee Report?

Subsequently, the Report was read by the Clerk in its entirety.

Representative O'Dea of Orono requested a roll call vote.

The SPEAKER: The Chair recognizes the Representative from Easton, Representative Mahany.

Representative MAHANY: Mr. Speaker, Men and Women of the House: I am going to support this piece of legislation because I have been convinced by the arguments in favor of it here today, but I am somewhat uneasy. I have heard here today something that comes very close to arrogance on the part of some members of management, I assume it is management, involved in getting this piece of legislation passed.

First of all, the employees were rendered uneasy and mistrustful by the fact that the schedule that they thought was going to be held to was ignored and they were not part of the process evidently. In addition to that, I have heard the House Chair of the Education Committee say that they came in and tried to ram through a piece of legislation because they didn't understand the process. Well, that may be a partial excuse for them but I don't think it excuses them entirely. My concern is this, have they learned their lesson or will they continue to try and push their will over on other entities that are there supposedly to keep them (in a sense) in line and under control? Will the board, in other words, simply rubber stamp the will of management in the future or will the board really scrutinize what is going on? I would hope that the board would take its responsibility very seriously and be very careful to make sure that management does not do something because it thinks it knows better, something that might work to the disadvantage, for example, in my area of the state or anybody else's area of the state.

The SPEAKER: The Chair recognizes the Representative from Fryeburg, Representative Hastings.

Representative HASTINGS: Mr. Speaker, Men and Women of the House: As an avid listener of MPBN and both public stations, no matter where I am in Maine because I find it the most delightful station we have on the radio dial, it amazes me that this hasn't occurred a long time ago. From my thinking from just reading the bill and the amendments that have come out of the Education Committee, it seems to me the issues that I hear being debated today are taken care of as to what happens to the property in the event of dissolution, what happens to the employees and how this is going to be managed. To my thinking, it's something too late, long needed, and hopefully, will give to all of us better listening and better viewing. I am for this and hope that all of you are.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of more than one-fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

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A vote of the House was taken and more than one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question before the House is passage to be enacted. This being an emergency measure, a two-thirds vote of all the members elected is necessary. Those in favor will vote yes; those opposed will vote no.

## ROLL CALL NO. 409

YEA - Aikman, Aliberti, Anderson, Anthony, Ault, Bailey, R.; Barth, Bell, Bennett, Boutilier, Butland, Cahill, M.; Carleton, Cashman, Chonko, Clark, H.; Coles, Constantine, Cote, Crowley, Daggett, DiPietro, Dore, Erwin, Farnsworth, Farnum, Farren, Foss, Gean, Gould, R. A.; Graham, Greenlaw, Gwadosky, Hale, Handy, Hastings, Heesch, Heino, Hepburn, Hichens, Hoglund, Holt, Jacques, Jalbert, Joseph, Kerr, Ketover, Ketterer, Kilkelly, Kontos, Larrivee, Lawrence, Lemke, Libby, Lipman, Lord, Luther, MacBride, Macomber, Mahany, Manning, Marsano, Marsh, Martin, H.; Mayo, McHenry, McKeen, Melendy, Michael, Michaud, Mitchell, E.; Mitchell, J.; Morrison, Nadeau, Nash, Norton, Nutting, O'Gara, Oliver, Ott, Paradis, J.; Parent, Paul, Pendexter, Pendleton, Pfeiffer, Pineau, Pines, Plourde, Poulin, Pouliot, Powers, Rand, Reed, G.; Richards, Ricker, Rotondi, Ruhlin, Rydell, Saint Onge, Salisbury, Savage, Simonds, Skoglund, Spear, Stevens, A.; Stevenson, Strout, Townsend, Tracy, Treat, Vigue, Waterman, Wentworth, Whitcomb, The Speaker.

NAY - Adams, Carroll, J.; Cathcart, Duffy, Dutremble, L.; Garland, Gray, Hanley, Hussey, Lebowitz, Look, Merrill, Murphy, O'Dea, Reed, W.; Stevens, P.; Tammaro, Tardy, Tupper.

ABSENT - Bailey, H.; Bowers, Carroll, D.; Clark, M.; Donnelly, Duplessis, Goodridge, Gurney, Hichborn, Kutasi, Paradis, P.; Richardson, Sheltra, Simpson, Small, Swazey.

Yes, 116; No, 19; Absent, 16; Paired, 0; Excused, 0.

116 having voted in the affirmative and 19 in the negative with 16 absent, the bill was passed to be enacted, signed by the Speaker and sent to the Senate.

## PASSED TO BE ENACTED

## Emergency Measure

An Act Regarding Advisory Boards and Occupational and Professional Licensing Boards (H.P. 1664) (L.D. 2341) (H. "B" H-1288 to C. "A" H-1180)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 112 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

The Chair laid before the House the following matter: An Act to Amend the Animal Welfare Laws (S.P. 696) (L.D. 1861) (S. "A" S-647; S. "D" S-681;

S. "E" S-685; H. "A" H-1247; and H. "B" H-1278 to C. "A" S-639) (Emergency) which was tabled earlier in the day and later today assigned pending passage to be enacted.

This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 120 voted in favor of the same and 1 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

The following item appearing on Supplement No. 1 was taken up out of order by unanimous consent:

## CONSENT CALENDAR

## First Day

In accordance with House Rule 49, the following item appeared on the Consent Calendar for the First Day:

(H.P. 1531) (L.D. 2160) Bill "An Act to Maintain the Functioning of the Uniform Commercial Code and Corporate Sections of the Department of the Secretary of State" (EMERGENCY) Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1310)

Under suspension of the rules, Second Day Consent Calendar notification was given, the House Paper was passed to be engrossed as amended and sent up for concurrence.

## PASSED TO BE ENACTED

## Emergency Measure

An Act Concerning Technical Changes to the Tax Laws (H.P. 1716) (L.D. 2401) (C. "A" H-1184; H. "A" H-1283; and H. "B" H-1291)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 111 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

By unanimous consent, all matters having been acted upon requiring Senate concurrence were ordered sent forthwith to the Senate.

The Chair laid before the House the following matter: Bill "An Act to Establish Economic Recovery Tax Credits" (EMERGENCY) (S.P. 960) (L.D. 2430) which was passed to be engrossed as amended by House Amendment "A" (H-1299) in the House on March 27, 1992; came from the Senate with that Body having insisted on its former action whereby the Bill was

Sagadahoc, Senator Cahill, population fluctuation would not be the determining factor as to how many seats there would be. It would be the House that would make the determination as to whether or not they would want to reduce. Currently, they do not have that option available to them because the Constitution sets them at 151 members. This would provide a flexibility if they would so desire to reduce on their own they could do so. Thank you.

On further motion by same Senator, Senate Amendment "A" (S-702) **ADOPTED**.

Which was **PASSED TO BE ENGROSSED, As Amended in NON-CONCURRENCE**.

Under suspension of the Rules, ordered sent down forthwith for concurrence.

The President Pro Tem requested the Assistant Sergeant-at-Arms escort the Senator from Penobscot, Senator **PRAY** to the Rostrum where he resumed his duties as President.

The Assistant Sergeant-at-Arms escorted the Senator from Penobscot, Senator **BOST** to his seat on the Floor.

Senate called to Order by the President.

Out of order and under suspension of the Rules, the Senate considered the following:

#### COMMITTEE REPORTS

##### House

##### Ought to Pass As Amended

The Committee on JUDICIARY on Bill "An Act to Ensure Continuing Knowledge of the Identity and Whereabouts of Convicted Sex Offenders"

H.P. 1652 L.D. 2315

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1271)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1271)**.

Which Report was **READ** and **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-1271) **READ** and **ADOPTED**, in concurrence.

Which was, under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED, As Amended**, in concurrence.

#### ORDERS OF THE DAY

The Chair laid before the Senate the Tabled and Later Today Assigned matter:

Bill "An Act to Improve Educational Public Broadcasting Statewide" (Emergency)

S.P. 945 L.D. 2409

Tabled - March 25, 1992, by Senator **ESTES** of York. Pending - **ADOPTION** of Committee Amendment "A" (S-666)

(In Senate, March 24, 1992, Committee Amendment "A" (S-666) **READ**.)

**THE PRESIDENT:** The Chair recognizes the Senator from Penobscot, Senator **Bost**.

Senator **BOST:** Thank you Mr. President. Ladies and Gentlemen of the Senate. It's very seldom that the good Senator from York, Senator **Estes**, who is a very good friend of mine and I disagree on an issue. I notice he's shaking his head. We've fought a number of very good battles together and I've been

around this legislature long enough to know when I'm engaging in an uphill fight of sort. The issue of public private merger has been lobbied intensely in this legislature by a very expensive, high powered lobbying firm. I'm sure you've all been approached in one form or another over the last two or three weeks. I could only think of the good Senator from Aroostook, Senator **Theriault**, who likened his position on an issue last session to being engaged in a fight between David and Goliath and I think this situation is quite similar.

I hope members of this body will think very carefully before endorsing this proposed merger of WCBB and MPBN. I believe that this initiative raises more question than answers, among them: Why were the employees of both entities deliberately excluded from discussions about the merger and denied an opportunity, for the most part, to participate in the process? Why are the staff, who are calling me and a number of my colleagues from both WCBB and WPNB, voicing legitimate concerns about the merger afraid to go public for fear of retribution? That's very real and was reiterated to me tonight by a number of people who are involved. Why would the University of Maine system be so enthusiastic about relinquishing one of its greatest assets, a broadcasting system, which reaches into hundreds of thousands of Maine homes? Why would the University promote the dilution of one of its greatest outreach tools? Why would WCBB hire the services of a prestigious firm to lobby this bill full time at great expense? Who's picking up the tab? Why the intense interest in the sudden passage of this bill? Why is this bill being rushed through the process? Why should we be compelled to adhere to an arbitrary time frame set by the management at WCBB? Why does the Chancellor indicate that if this bill doesn't pass that the concept is dead for another five or ten years? What safeguards are in place for existing employees after the first year of operation? And, finally, in my estimation the most important question, Why would we, as a Legislature, approve dissolving a public broadcasting system funded in large part by a general appropriation and send that same appropriation to a private corporation when we don't have sufficient funds available to insure the solvency of some of our most basic programs in State Government? Why should we be earmarking millions of dollars to a private, essentially autonomous entity? What's going on here? I don't know. I've been trying to find out, it's very difficult to get information. You have to ask the right questions in order to get the answers that you want. And that's been a very frustrating exercise. I know that it's been frustrating for the Education Committee because they've been placed in a situation where they've had to deal with a bill of tremendous significance and substance in a very compressed time period. And much of what I think has needed to take place, in terms of discussion and thoughtful deliberation about this proposal, has not taken place simply because of the time element. I know that's been frustrating for a number of people that have been involved in this discussion. As far as I'm concerned these questions need to be resolved before I can vote for this measure. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from York, Senator **Estes**.

Senator **ESTES:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I wish that I had had the opportunity to have gone up to the lounge earlier



this evening to flex my muscles and pump me up for this debate but I will try my best to give you some points that I think are important and I know that the good Senator from Penobscot, Senator Bost, does have some serious concerns.

We have literally debated this for hours and hours over the last several days. We have even tried flipping coins and arm wrestling and have come to no agreement on this issue. This is, I think, a very important step that the State Legislature is taking in approving this unification. I think it's an important step that is really going to have significant benefits for the people of Maine, not only in the near future but in the long run. The idea of unifying Maine's two public broadcasting organizations actually rose to serious discussion last spring. It became more of a public issue last October when there was an article in the Maine Sunday Telegram, I believe, and since then there's been considerable press coverage in both the station's program guides which are sent to more than 60,000 Maine households have reported about the plan. The public comments that have been received by both stations have been very favorable. You also may note that there's been many editorial endorsements that have been given by major newspapers. I would like to return to that in just a minute because I have had a little bit of frustration with the way that this was reported.

The idea of the merger has been on the minds of people at both organizations for many years. It is the consensus of management and the boards that oversee these two institutions that unification is inevitable and that it is time to get on with it. The Boards of Trustees of the University of Maine system and WCBB have endorsed the plan and the Colby, Bates and Bowdoin College boards have also approved.

I want to talk just a little bit about the convoluted schedule because it has been very frustrating for the Education Committee. We knew that there was going to be a merger bill coming at some point in time this session and during the month of February there was a title that was before legislative council but unfortunately the legislative council did not act on it until the 2nd of March. They approved it, I believe it was a unanimous vote, and the bill had to go through its final drafting. It was on the 9th of March that the bill was referred to Committee. Because of the deadline for reporting bills out the Committee was facing, we held a very quick public hearing the following day and began extensive work sessions on the bill to get it out on time to meet the 5:00 deadline on the March 13th. Since that time, when a unanimous report came out of the Education Committee, the bill has been downstairs for final drafting and then finally appeared on Monday on the calendar for our consideration. In the meantime I've been a little dismayed with some of the coverage in the press which I think has really confused the situation.

There's been some speculation of what's happened to the bill, why has it dragged on, why has it been hidden from time to time. I have myself called one editor of one of our daily newspapers and another columnist from another paper to set the record straight and I hope that those corrections will be coming shortly in the paper in those respective papers. Also, I do want to bring your attention to information that I did pass out which I think gives you some substantial background. Yesterday I had

distributed to the body a letter to Representative Jim Oliver from the President and General Manager of WCBB answering some outstanding questions that certain members of the committee felt were in need of a fuller response. I've also submitted to you a status report dated March 14 which gives you the history, the goal of the unification, the proposal, the legislation and the legislative process and then what remains to be done over the next several months in order for the unification to take place on July 1.

One of the questions that has been raised is the question of public accountability, by allowing this bill to pass we, the legislature, will neither be giving up accountability of public broadcasting nor losing the value of the existing MPBN assets. The new organization will be required, through the Committee Amendment, to report to the legislature about the transition in the merger in April of '93 and in February a final report in '94 on what the effects of the transition have been. Also the Chancellor of the University and 3 University of Maine system trustees will serve on the new organization's board of trustees along with the Presidents of Bates, Bowdoin and Colby Colleges. The new corporation will depend on tens of thousands of individual contributions for the largest share of its financial support. Thus retaining the public accountability for programming and other activities which has guided both MPBN and WCBB management over the last 30 years. Finally, the new organization will depend on the State for approximately one quarter of its total budget. Public accountability is clearly a cornerstone of this new organization. The University has invested heavily in developing a sophisticated broadcasting network as has Colby, Bates, Bowdoin Educational Telecasting Corporation. The University, under this unification agreement, retains forever its financial interests in the assets of the new organization. There will be no loss of assets under this plan any more than there will be any loss of accountability.

I believe that this is an extremely responsible plan that fully protects the public investment and the public interest that we have made in public television. I would also call your attention to the articles of incorporation which specify what will happen if there is to be a dissolution or termination. The assets that were transferred will return to the University of Maine system and the State and that the appropriations that would be coming from the State would go for the maintenance and expansion of the infrastructure and those assets would also be returned on the event of a termination of the agreement or a dissolution. Finally, you have to keep in mind that the cost of television broadcasting and production are very expensive. By maintaining two entirely separate systems to serve the relatively small population of Maine we are not making the best use of public resources.

Take for example the current pledge week operations that are being broadcast separately from Lewiston and Bangor. One half of the expense of these separate operations is unnecessary. By unifying the stations only one pledge week operation would be needed, remaining resources could be used to produce more programs like Made In Maine or Kiosk or one of the other fine productions about Maine's culture, work places or public affairs. Certainly all viewers would benefit from such a change. I believe that other advantages will be found in the

future as the cost of replacing extremely expensive equipment will be reduced after unification. I believe that long term savings are an important goal in approving this legislation. I urge your support. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Penobscot, Senator Baldacci.

**Senator BALDACCI:** Thank you Mr. President. Ladies and Gentlemen of the Senate. One of the things that concerns me about this merger is the fact that the University, is going to be allowing an asset, a six million dollar asset, to be utilized by a private, non-profit corporation and the State is not receiving any type of a fee for the utilization of that asset. I'd like to know if the State is receiving any fee at all for the utilization of that asset.

The other thing in the letter that Mr. Gardiner has sent to Mr. Oliver, talks about the proposed expenses but it doesn't say anything about the revenues. I would be interested to know if there is any projected revenues from this proposed merger? I get conflicting information in the letter that Mr. Gardiner sent to Mr. Oliver where he says that "because the legislation hasn't taken effect, they haven't worked on any organizational charts" and then further in the letter talks about they've got a membership director, new entities may choose to have a director of membership or renewal director and he talks about particular positions. He has either worked on it or he hasn't worked on it.

I think as a further commitment to the members of this body that you would not have as many people here that are under that particular organization and concerned about what was going to be happening and to be staying here morning, noon, and night to watch what was going on if there was communication from Mr. Gardiner in the organization at WCBB and MPBN. Something that's been talked about for 20 years and then all of a sudden two years ago, or a year ago, they said it was going to be done in a couple of years. All of a sudden they're told that under the gun it's going to happen in six months. Nobody's told them anything, and this shows that there's going to be a lot of problems down the road. Before the ship is leaving the port I think it's very important to make sure that it doesn't have any holes in it, because it would be lucky to get out to sea. In this letter Mr. Gardiner states that they're undergoing a big voluntary contribution effort and they don't want the cloud of no legislation. Mr. Gardiner doesn't seem to realize that the University and MPBN relies 43% on a state appropriation and 29% on voluntary contributions. He doesn't seem to be aware of those facts.

This communication hasn't been both ways, I'm not opposed to a merger, what I am opposed to is not receiving anything for an asset utilization only as the Good Senator from York, Senator Estes, has pointed out that we will make sure we still have that, we're not giving up that asset. We're not receiving any fee for the use of that. To me that's a loss, the other thing is that we're talking about a private non-profit corporation who, under my reading of the statutes and I'm not an attorney and there are many here and they can correct me, but they're not susceptible to the public's right to know. The books are not open. I think that as far as the public's concerned that we should have a few of these things answered before we go any further down this road. Thank you Mr. President.

**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator Brannigan.

**Senator BRANNIGAN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I am delighted to be the sponsor of this bill. I think that it is a wise move on the part of the state and the University to begin to pool their assets in this endeavor with the very successful operation of WCBB. I don't see it as a loss at all but an enhancement of the money we spend, and enhancement of the assets that we have been able to build up. There will be no fee, this is a merger. The good that will come from this is a much better use of public television and radio.

We certainly are unfortunate we have been unable to support this effort as well as we would like to have, as well as we have in the past. We have had to cut back on MPBN in the same way we've cut back on other parts of State Government. It hurts their program. I believe that this merger is a very valuable way to use our assets. In any merger both parties give. We're giving our assets and future contributions and we are getting a great deal of the strength that MPBN has, that WCBB has, and the trustees will be a solid partner in this merger group. I'm delighted that we're moving in this direction and I hope that the questions that people have are not sufficient to keep them from helping us get on with this important matter. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from York, Senator Estes.

**Senator ESTES:** Thank you Mr. President. I would like to respond to the questions that were asked by the good Senator from Penobscot, Senator Baldacci. The first question was is there going to be any fee transmitted from the corporation for the use of the assets from the University system. The answer is no, there's not going to be any money up front. You have to keep in mind that both corporations are giving up their assets, WCBB and MPBN, to the new corporation which will be called the Maine Public Broadcast Corporation. Both of them in the event of a termination of the agreement or a dissolution would receive back any of the assets that they originally came into the new agreement with.

The other thing that you have to keep in mind is that one of the reasons we do not see this finely structured, in terms of what will take place on July 1, is that the first year is going to be a transition year and we will have set up under this legislation a transition board of directors comprised of the Chancellor as Chair, 3 members of the Board of Trustees of the University of Maine system and the 3 Presidents of Colby, Bowdoin and Bates. There will be the addition of 8 to 12 public members, those public members will actually come from names that are recommended by the subscribers to the new corporation. It will be the transition board that will be setting up the structure and determining what will be happening with the employment and positioning within the new entity.

One of the things that is planned at this time is to run not just one public television station but a second station with additional programming, not duplicate programming, which will mean that employment will stay at a relatively high level. We will need to have people doing duplicative work within the two stations that will be operating in terms of television broadcast. In terms of the amount of money that the corporation will need for operation, it is an estimated budget of approximately

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\$8.3 million. 25% of that, excuse me \$8.3 million over a biennium period, 25% of that would come from the State appropriation, the remainder of that would come from voluntary contributions, corporate contributions and there would be federal money for public television that would also be coming in. I do not have the exact breakdown on those figures.

We have seen public and private partnerships in education work successfully in a lot of other areas. Library services is a good example, course offerings between the public University system and the Private Colleges to eliminate duplication, and to make the most effective use of public and private resources. Cooperation between the new corporation and the University of Maine system interactive television system will continue, I think that Maine's Public Broadcasting Corporation can be and will be an outstanding example of how various types of institutions can benefit from new partnership arrangements. I hope those have answered some the questions.

**THE PRESIDENT:** The Chair recognizes the Senator from Penobscot, Senator Bost.

**Senator BOST:** Thank you Mr. President, Men and Women of the Senate. I appreciated listening to the exchange between the good Senator from Penobscot, Senator Baldacci and the Senator from York, Senator Estes, however I would respectfully submit that all of the alleged safeguards that the good Senator from York referenced have been put in place rather hastily over the last few days to make certain that there's some measure at least some measure of accountability are insufficient. What we need as a safeguard ultimately is to put a hold on this freight train that's leaving the station and think it out and put the onus back on WCBB and on MPBN to work out an agreement to flesh out something that's tangible.

To look at a structure that we can analyze, to look at some financial data and as the Senator from Penobscot, Senator Baldacci so appropriately indicated, look at revenue projection, look at things like this that are so important to us in the public domain on virtually every other issue why should this issue be an exception? Why are we rushing this issue through the process? I truly believe that this is a sweetheart deal, this bill represents a sweetheart deal for certain people that are involved in the merger design, not the least of which is an individual by the name of Rob Gardiner. Let's put it all out on the table Ladies and Gentlemen, we're about ready to adjourn Sine Die in a couple of days and this is either going to be cum laude or postponed. Let's put it out on the table, let's call a spade a spade.

I ask you, if we were to create a new department within State Government now, today, if we had the resources and obviously we don't, would we write into the enabling legislation who the commissioner is going to be? I don't think so. That's precisely what we're doing by passing this legislation. There is an heir apparent to the throne at the new entity called Maine Public Broadcasting Corporation, he has the job, it's all ready for him. Now I have no objections to the individual, I don't know him but I object to the process. The Senator from Penobscot, Senator Baldacci, read to you or referenced rather the letter that we've been all waiting for with baited breath from Mr. Gardiner which presumed to answer the questions that were asked of him by a

couple of legislators from the other body. The letter which I had high hopes of answering some of my concerns is riddled with inaccuracies and assumptions.

It indicates on the first page that MPBN staff has been reduced by 15 positions it's been reduced by 22 positions. That's an easy answer to find. I'm surprised that the mistake was made. There is an indication that there will be no headquarters for this new entity, please that's like saying there will be a State Government but there will be no headquarters, there will be no State House. I don't think we're being intellectually honest here ladies and gentlemen. We're talking about the MPBN and CBB investing in a large amount of production time and resources in producing station break materials etc.. The inference here is that this is a sizable chunk of their time at WCBB and if we merge we can better manage our time etc. etc. I'm told at MPBN that they spend approximately one day a week on this. Is that a burden? You ask yourself. One of the most disturbing things that I've come across over the last 24 hours is what I consider to be some of the rather deceptive ways in which this has been introduced to the very people that are going to be asked to carry out this new entity, this new program, this new corporation. Supposedly the framework is not there the organizational chart has not been fleshed out, however, when the question was asked what are you going to do with such positions as the membership director a very clear answer came back in the form of this letter which said we may consider revamping the membership director position. A call was placed last night to the existing membership director at MPBN, she had never heard of this. So I ask myself, as I posed earlier to this body, is it now a case of just asking the right questions. I don't have time to familiarize myself with this issue to the point where I know all the right questions to ask to get the appropriate answers. I don't think that we should be put in a position like that.

Another inaccuracy was that both the stations receive the largest part of their revenues from voluntary contributions, the good Senator from Penobscot appropriately pointed out that this is another inaccuracy. MPBN receives 43% of its operating revenue from general appropriation, 29% from members and 7% from business supporters, I'm not clear on what WCBB garners, but I'm sure they have that information available. Once in a while we get a glimpse at the thought process that goes on beyond the public view, if you will, and I was, I became privy to minutes of a staff meeting at WCBB which I think that in order for you to be better educated on this topic you need to hear. On March 19 a staff meeting was held at the request of management at WCBB at headquarters to discuss an article that appeared in the Bangor Daily News that obviously someone over there felt was unfavorable. Somebody actually questioned the validity of this project. So a major staff meeting was called and the minutes were furnished to a number of members of this body and I will quote from some of the more eloquent conversation that went on in that room, I wish I'd been there. Russ continues, "Rob Gardiner didn't want to put mention of WCBB in the legislation because it will make MPBC a public institution. The legislature wants to have control for the next three years," Russ explained how that control angers him. Now what Mr. Pieter, and again an individual I have not met, I do not know, what it appears to be he is



implying here is that every effort was made to straddle the public/private fence and that while management at WCBB courts the legislature for its blessing AND it's appropriation, the most important part, it wants nothing to do with anything that could place it in the public domain. Open to public scrutiny. But more bluntly, it wants to reorganize privately with public monies. If legislative control angers this gentleman perhaps he and his colleagues should look to the private sector for full funding because I believe the scrutiny of this merger, or as they prefer to refer to it as consolidation, will only intensify with time. It goes on, Russ Pieter continues, "The part that bothers me the most is that this isn't a public organization what is implied is that the state is giving up equipment and giving it to a private company like Dow Chemical, they want to talk about public accountability and that" expletive deleted, I'll replace it with "that really gets my blood boiling." for the purpose of the legislative record.

Now we move from concern about control to anguishing about accountability. MPBN must be accountable for their funds, they have a separate line in the budget as we're all aware, they have a separate line and we should expect no less from this new entity. Russ continues talking about what will happen if this bill doesn't pass, "if it doesn't fly you're looking at two very wounded organizations, we'll be out there trying to raise funds and looking like losers. Not only will we be competitors, we'll have to tell people why this didn't work. You can almost bet this bill will get on the floor but it will be amended. It will be a bill that we don't want." Now let's look at that statement carefully. If the merger doesn't occur there should be no wounded organization, it should be business as usual. Unless, everything has taken place, all the mechanisms are in place, all the movement has taken place and all this is is merely a stamp of approval. If that's been done there may be some wounded organizations, but if we're taking them at their word there should be no wounded organizations.

Maybe there are issues that we aren't aware of, is WCBB financially solvent? I don't know, the question needs to be asked. Has there been commitments made by groups involved in this discussion that they somehow can't back out of? I don't know. The questions need to be asked. Why would there be wounds if this failed passage except for maybe a few egos? Why would they feel like losers when fundraising? I don't understand that. MPBN's corporate and individual contributors will still be there. WCBB's individual and corporate contributors will still be there. Where are they going to go in the interim? Why would failure to approve this merger suddenly make the two stations competitive? And lastly he says "an employee then stated that if this falls apart we'll be in oblivion". Russ states "I have a feeling if it doesn't happen now we'll die for five or ten years, then the legislature will take the heat, there will be lots of layoffs at MPBN because the legislature hasn't budgeted for MPBN next year." Well, I appreciate the political analysis that this gentleman has provided, however, he obviously hasn't spent much time talking with legislators. If he had he would learn that rather than having to wait five or ten years to try again all WCBB and the University of Maine system need to do is formulate a well thought

out plan for implementation, how people would be impacted. Many of these staff have worked for Maine Public Broadcasting Network and WCBB for years, they deserve to know what's going to happen to them. And some sort of meaningful cost analysis, these kinds of things need to take place. And it hasn't been done and it's not the fault of the Education Committee.

They had only three days to hammer this bill out it's the fault of the people that have kept this plan essentially to themselves until it got to this point in the legislative process. I will close with what I believe to be an appropriate analogy, approximately three years ago when I had the good fortune of serving on the Joint Stanning Committee on Education with the Senator from York, Senator Estes, we had before us a bill which surfaced very much like the bill we are debating tonight. It was a bill which appeared in the latter days of the legislative session to create a Maine Education Authority, which would funnel student aid services and consolidate virtually every student loan fund available currently to students in the state. But ladies and gentlemen, most of the members of the Education Committee, they couldn't quite put their finger on it but something was wrong with that picture. There was an individual who was prepared to assume the mantle of this new authority and it was preordained, once the authority was in place, received legislative approval, this individual would take the helm. Something wasn't right with the proposal, and fortunately the education committee at that point had more time than it had this time, and looked into the matter and found out that no in fact it wasn't a good deal for the people of this state and provided an alternative to that authority which, in my estimation, would have been a fiscal albatross, and placed instead those functions under the Finance Authority of Maine, where they sit today and I might add, very successfully. I think that situation is analogous to this issue that we are debating here tonight. There's something wrong here, and I simply can't put my finger on it. But I think the questions need to be asked and we need more time. This is simply not the point in which to move.

**THE PRESIDENT:** The Chair recognizes the Senator from York, Senator Estes.

**Senator ESTES:** Thank you Mr. President, Ladies and Gentlemen of the Senate. There have been again a series of questions and comments that I think need to be reacted to on the record. And I would like to say to the good Senator from Penobscot that I firmly believe that there is not a boogey man in every closet. I know that the process has been the problem with this bill coming before this legislature on this day. I am convinced that it has not been the people who have been involved in the discussions for almost a year now on what they could be and how they could become what they wanted to be.

I will say that I have known Mr. Gardiner, the general manager, for probably three years now and have served with him as a member of the Commission on the Common Core of Learning, and also on the Coalition on Education Excellence. At some of the meetings for the Coalition back in the fall, we talked about the possibility of this legislation coming up in this particular session. I think what is particularly troublesome is the fact that the Committee was put in an awkward situation of having to consider this in such a short period of time. It was difficult getting specific answers to questions.

Some of that I think was due to individual's lack of familiarity with the process, the fact that the process had been sped up to an incredible pace, where the bill was referred on a Monday night and a hearing is held on Tuesday afternoon and the work sessions to hammer the bill out take place over those next several following days.

In instances where concessions had to be made by WCBB, they did so and did so willingly. They supplied us with the papers of incorporation that were filed with the Secretary of State's Office on February 7, they supplied us with the draft copies of the bylaws dated February 4, we were able to resolve some outstanding situations as they pertain to personnel at WCBB and protection of their rights currently covered by collective bargaining agreements. Guaranteed job security, and salary and benefit provisions during the first year of transition. Assurances were also given by MPBC leaders that all other employees would be offered similar guarantees.

In terms of the organization, there were certain aspects of the bylaws pertaining to the composition of the Board of Trustees, and the President of the corporation that were cottified in the committee amendment. I also have mentioned the fact that there will be transition reports coming in both in '93 and in '94. In terms of the letter that is dated March 24, that happens to be yesterday, this was in response to a letter that went out on March 23. And I don't think one day is too much time to turn around on a total of 9 questions, and fairly intricate questions. I guess my problem with the funny feelings that a number of legislators have had about this is that this bill was reported out of committee on the 13th of March, a unanimous report of the committee, not a divided report, there could have been a divided report and then I think the debate here tonight could have been fair game.

I sat up here last week with all of our committee work done with time on my hands, time on my committee members hands, twiddling our thumbs; no one mentioned what about the boogey man, we should talk about this some more. It really wasn't until I arrived here late Monday morning that there were all sorts of stirrings that had gone on. In fact I made mention in caucus today that not only on this bill but on a couple of other bills that came out of the Education Committee, people have had opportunities to talk about problems that they've had with the bills and whether those problems could be fixed or should be fixed and it's almost as if I've been ignored, and I find that rather strange, rather troublesome. I would also like to put on the record, because I know this is a question that has come up, about the public right to know, the good Senator from Penobscot, Senator Bost, talked about financial disclosure and being able to look at their records, those are available, by state and federal law those are available.

Under Maine's Charitable Solicitation Act for non-profit corporations the station and the new corporation must file an annual report of revenues and expenditures, including the types of expenditures. This assures the public a disclosure of how much money is spent on everything, including administration. The station is also required to disclose salaries of all of its top management who earn over \$30,000.00 a year. The FCC requires the station to maintain an extensive public file at the

station which must be available on demand. This file contains information about programming, correspondence from the public, records and information about the station. As the station currently now, and in the future, the new entity will receive money from the corporation for public broadcasting i.e. the Feds, WCBB now files, and the new corporation will have to file, an extensive detailed report containing information on such matters as financing, public access, and equal employment.

In addition, the station is required to provide public notice of all trustee meetings which are now open to the public and will continue to be open to the public, that notice is by advertising of the upcoming meeting by on-air notices with the television station. The minutes of these meetings are also available in the public file for public access. So the FCC, the Corporation for public broadcasting, the Maine law, IRS regs, all require extensive disclosure of information. And I believe that that should be satisfactory in terms of people getting whatever it is that they want to know. The last thing that I would say is that we have an interim board of trustees, 7 members, 4 from the University system, 3 from the 3 private colleges. They will be the ones that will be overseeing this merger and setting up the organization. The President of the Corporation is chosen by the Board of Trustees for a one year term and must be reappointed at each annual meeting. At the first annual meeting you will have all board members, public as well as the 7 designated in statute, and they will choose the President who has the responsibility of the operation and management of the corporation's facilities and activities, is responsible for supervising all personnel employed by the corporation and reports directly to the Board. I hope that those answer some of the other concerns that were out there and I urge you again to support this legislation. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Knox, Senator Brawn.

**Senator BRAWN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I did not plan to rise on this issue but after listening to the tone of some of the debate, I made some notes and feel compelled to speak briefly. I want to commend, publicly here on the floor of the Senate, our good Chairman the Senator from York, Senator Estes who, if I was tired and could do a job like you just did you should be patted on the back. Senator Estes has always been professional and above board in our Committee and as he has stressed and I can't stress it enough, this was a unanimous committee report, unanimous.

I was at that public hearing and I was there all morning, I thought it was very professional, there were many questions asked, they all would be on the record downstairs. I also applaud him this morning for getting this letter and everything on our desks to answer questions. I think there's no doubt that I'm concerned about the tone when I've made such notes as "we waited with baited breath" or "financially solvent" or I mean is this a set up or vendetta or what's going on here? I'm really concerned about this. I want to just make a couple more points that Rob Gardner has always been, I don't know him either, I wouldn't know him if he walked in here, and he might have been one of the men there that morning. I listen to people, I don't put a name with a person, I listened to every person that was

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there, but everything in this, if you read it again, is right up front, he's already in here twice said he'd be glad to answer any more questions. They have been right up front as far as I'm concerned. And you know, we have to be patient when we understand this has been a very packed in session. And if you're given a notice that you've got a public hearing the next day and you show up and you're there you can't expect miracles of having everybody to know. I just want to, for the record, say that I feel very comfortable with this merger, I never for one minute felt it was a sweetheart deal of any type. I don't feel a bit uneasy. I urge you to support this and Mr. President I would ask for a roll call.

On motion by Senator **BROWN** of Knox, supported by A Division of one-fifth of the members present and voting, a Roll Call was order.

**THE PRESIDENT:** The Chair recognizes the Senator from Penobscot, Senator Bost.

Senator **BOST:** Thank you Mr. President and men and women of the Senate. I'm pleased to know that I'm so quotable. There are a couple of other issues that I think at least need to be discussed, I know that the members are growing weary of this debate, but we are on the threshold of moving into a new era in public broadcasting and I think these, potentially anyways, I think that these issues need to come to the surface.

One of them is that it is my understanding and I would pose this in the form of a question to my good friend and colleague from York, Senator Estes. If the employees, current employees of MPBN, move from essentially employees of the University of Maine system into the new entity, are they, is the University obligated under contractual agreement to provide them with severance pay? If they are required, how much? Is the severance pay, how much would it be worth, the information that I've been provided is that it would be roughly \$500,000.00. That figure may be wrong, up or down somewhat, but if we could get some clarification on that issue that would be helpful.

Secondly is the issue of cost effectiveness and efficiency. I was told about an instance, not long ago, where a number of engineers from WCBB traveled to the Bangor studios of MPBN to share with them the new plan, the new transmitting plan. And did so less with any inclination toward getting input but more to provide them with the plan and tell them that this is essentially the way it was going to be. The plan as it was described to me, and I will share it with you in laypersons terms because I'm not entirely knowledgeable about this, but the plan was to feed the northern Maine area from southern Maine and to feed southern Maine from northern Maine. And the engineers at MPBN were left scratching their heads, they said wouldn't it be more efficient to have northern Maine service northern and central Maine and southern Maine service southern Maine? That was dismissed, that idea was apparently novel.

In a supervisory staff meeting back on October 7 of 1991 at MPBN, present were the director, Ed Winchester and others, it was shared in the staff minutes that Tony Paine of Maine Media was here last week for a meeting with Barb, Mary Lou etc. etc., Mr. Paine's specialty is crisis management, he discussed the importance of disseminating accurate information regarding the consolidation, will be preparing a report etc. He stressed the importance of using the word consolidation which is what is planned, and not

merger because people would get confused and there are perhaps weightier implications of the word merger instead of consolidation. But the most important part of this memo is the fact that it said "the following items were tentatively agreed upon at a meeting of the task force," and among them, "there will be no forced moves for two years," from a point, I'm assuming, from the point of the merger. Now obviously that has been scaled back to one year. What is to prevent that from being scaled back further at some point? I don't know. There are, I understand, adequate protections in the legislative language to make certain that most of this doesn't happen, but the communication that's going on and the credibility of some of the correspondence would lead one to believe that not necessarily everything is on the table. And my final question to the good Senator from York, Senator Estes, if he could be so kind to provide it, has there been any analysis of the impact on membership, whether it be at WCBB level or MPBN or as a combined unit. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from York, Senator Estes.

Senator **ESTES:** Thank you Mr. President. In regards to those multiple questions, I will try to hit on a response for each of them. Pardon me if I do forget, I did take down a few notes here. In terms of the employees and what is being done in regards to severance, those negotiations are currently going on. That is, the MPBN employees who are represented by the Maine Teachers Association and the non-unions are doing their negotiations with management at MPBN, they will be taken care of, I don't know what that figure is, I'm not involved in the collective bargaining at this time. Those employees that maintain employment after July 1, within the new corporation by their choice, are guaranteed employment and the agreed upon salary and benefits for the first year of the corporation. Undoubtedly, they are nervous about this move, anyone would be. If you had an organization that has existed for 30 years, or nearly 30 years, to come July 1 to a situation where there is a consolidation, and I think consolidation is a reasonable word to talk about the first year, because the first year is going to be a transition where the staff of both institutions are going to be getting to know each other and working with each other and planning what the structure is going to be for the future of the new corporation.

It's a nervous time out there for anyone in an employment situation, whether they're employed by State Government or whether they're employed by the University system or one of the private colleges or a private business out there. Everyone's been nervous because of the crisis in our State Government and because of the state of our economy. I do say, with some interest, that I was unaware that there was an MPBN meeting, staff meeting, on October 9 I believe it was with an individual by the name of Mr. Paine, but that seems to me to suggest that there have been some serious ongoing discussions about what if this merger, or consolidation, is allowed to take place by the legislature. In terms of cost effectiveness and efficiency, those are part of the bugs that are going to be worked out over the next year and it will be, undoubtedly, a struggle and there will be, undoubtedly, some false starts and corrective actions that may have to take place. I don't believe we can even expect that this new corporation will be able to

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hit the ground running on July 1 or August 1 or September 1, it is going to take time, it is going to take planning and that's, I believe, an essential part of this first year of transition.

In terms of membership support, I do know that from WCBB that the information they have gotten from their subscription membership is very positive to this consolidation, very positive to this consolidation. And it is the belief of individuals who have been working on this, and are supportive of this, is that with expanded potential of the new corporation will be reaching out to almost every corner of the state and providing more extensive programming that membership is very likely to grow over the early years of this corporation. I hope those answer the questions. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Penobscot, Senator Baldacci.

Senator **BALDACCII:** Thank you Mr. President, Mr. President and members of the Senate I'd like to thank the good Senator from York, Senator Estes, for answering questions and to have as much information at his fingertips and to be able to try to respond to some of the concerns that we do have. However, the concerns that I would have, very simply are, people were marching on the streets here in Augusta on Monday because we were asking people to have a cut in their pay, we're struggling to make ends meet financially, we're having a hard time. Is this being done to save money, I haven't heard it yet. The only thing I have heard is that we are possible going to be on the book for \$500,000.00 in severance pay. On top of the appropriation that's already going there.

I have heard people say, this is good, statewide coverage. Would you please tell me, even the good commissioner of Mental Health had the decency to talk about savings that were going to take place. Nobody has mentioned any savings from this merger. Senator from Penobscot, Senator Bost, he asked about some studies that have been done, there are other universities that have merged with private entities in Wisconsin, what happened? Nobody is opposed to this merger, we want it to happen. All we're saying is is it thought out? Are plans and structures established? There obviously is not a good working relationship in any school I've ever gone to if the top doesn't get the bottom involved there won't be anything to work on. It seems like everybody has to be working together. It doesn't seem to be very good teamwork, I mean the evidence is staring you in the face, it's been here all day. There have been no financial studies, there's been no studies on what happens to membership, there's been no studies of other entities, in other parts of the country what's been happening. And in spite of the comments by the good Senator from York, Senator Estes, there are several amendments that are going to be offered in as far as public right to know in regards to this particular matter.

I'm not sure as to the information on charitable solicitation and those laws which the committee on Business Legislation has jurisdiction over but I think that the concern that I have in the review by the people in legal profession is that this private, this private non-profit corporation is not subject to the public right to know laws. They're not subject, but maybe if I want to call the IRS and I want to tell them that I'm the State Senator from Bangor, Senator Baldacci, and I'd like a copy of that corporation's filings, if the right hand knows what

the left hands doing, I may be fortunate. If not I'm going to be somewhere, stuck in some office in IRS land, where ever that happens to be. But as far as any filings with the State of Maine, none of that information is available. There is no salaries over \$30,000.00, there is none of that information available under the charitable solicitation laws. None of that information is available. And I'm not looking, I'm not suggesting that Mr. Gardner's situation at WCBB, being a private non-profit corporation could possibly compare with the United Way and what took place with that private, non-profit corporation. I'm not suggesting that, all I'm suggesting that if there ever was a concern that the public would have the right to that information. Seeing that the public, the public who you were elected to represent, are handing over 6 million dollars in assets for them to use. We're supposed to be satisfied because the Chancellors on the Board and 3 trustees are. But you forget to look down at the bottom where it says 8 to 12 members other than those people will be appointed. Ladies and Gentlemen of the Senate, 8 to 12 vs. 4 looks like an overwhelming majority.

We're handing over two and a half million dollars of state appropriations. I'd just like to know, somebody maybe from the financial and appropriations committees could explain to me what dollar savings are we taking place with this particular merger. All I've heard here tonight is we're going to be on the hook for severance pay. Somebody point out some saving for the State for what we're going through. I'd be very interested to hear it. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Hancock, Senator Foster.

Senator **FOSTER:** Mr. President, men and women of the Senate. For the many years I've served on the appropriations committee, I've always had to look after Big Bird. And I will tell you the story of Maine public broadcasting and why I'm a co-sponsor of the bill, they have a separate line item in our budget and even the days when we had lots of money they never got their request, their full request, until the very last night, and if there was a little extra money I'd say "let's give it to Big Bird", because we were very enthralled in giving it to every other group in the State of Maine. Our answer was "you can get it with these shows, call in \$25, \$75 etc. etc." and I said to Ed Winchester, why don't you combine and get one public broadcasting system so that we can all have the same dollars going in together. Because we didn't have enough money for Ed to pay for his plumbing his heating, I mean he had a bare boned budget and he is the nicest man going and we really prevailed upon him to look at the big picture for all of Maine.

Why have 2 public radio stations buy one good program? I mean I sit there night after night and listen please call, and in this day when public dollars are fewer and where are the dollars coming from? Canada. Every night the Canadians call in. On that radio station night after night, I mean that's not a credit to the people of the State of Maine when we're getting all those dollars from Canada. And then again with the general dollars getting scarcer, now if you get squeeze feeling in your stomach about there's a big black boogey man out there the big black boogey man to me is that we might not have public dollars or general fund dollars to keep that radio station going. And I believe that the time is

to merge and if we can't rely on some people that know, now I respect your thinking about the employees and I got that very, that's a very strong message you have and I'm concerned and we should be, but I do believe that we first of all have got to look after preserving Maine public broadcasting and by doing the merger we will have one great public radio station for the state of Maine. And I think that's the number one priority. Let's think of that, number one priority is have one good public broadcasting system in the state of Maine. And we will have with this merger. Thank you very much.

Senator **BOST** of Penobscot moved that the Bill and Accompanying Papers be **INDEFINITELY POSTPONED**.

On motion by Senator **ESTES** of York, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

**THE PRESIDENT:** The pending question before the Senate is the motion of Senator **BOST** of Penobscot to **INDEFINITELY POSTPONE** Bill and Accompanying Papers.

A vote of Yes will be in favor of the motion to **INDEFINITELY POSTPONE** Bill and Accompanying Papers.

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

#### ROLL CALL

**YEAS:** Senators **BALDACC**, **BERUBE**, **BOST**, **BUSTIN**, **CONLEY**, **PEARSON**, **THE PRESIDENT** - **CHARLES P. PRAY**

**NAYS:** Senators **BRANNIGAN**, **BRAWN**, **CAHILL**, **CARPENTER**, **CLARK**, **CLEVELAND**, **COLLINS**, **DUTREMBLE**, **EMERSON**, **ESTES**, **ESTY**, **FOSTER**, **GAUVREAU**, **GILL**, **GOULD**, **HOLLOWAY**, **KANY**, **LUDWIG**, **MATTHEWS**, **MCCORMICK**, **MILLS**, **RICH**, **SUMMERS**, **THERIAULT**, **TITCOMB**, **TWITCHELL**, **VOSE**, **WEBSTER**

**ABSENT:** Senators None

7 Senators having voted in the affirmative and 28 Senators having voted in the negative, with No Senators being absent, the motion of Senator **BOST** of Penobscot, to **INDEFINITELY POSTPONE** Bill and Accompanying Papers, **FAILED**.

**THE PRESIDENT:** The pending question before the Senate is **ADOPTION** of Committee Amendment "A" (S-666).

A vote of Yes will be in favor of **ADOPTION** of Committee Amendment "A" (S-666).

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

#### ROLL CALL

**YEAS:** Senators **BERUBE**, **BRANNIGAN**, **BRAWN**, **CAHILL**, **CARPENTER**, **CLARK**, **CLEVELAND**, **COLLINS**, **DUTREMBLE**, **EMERSON**, **ESTES**, **ESTY**, **FOSTER**, **GAUVREAU**, **GILL**, **GOULD**, **HOLLOWAY**, **KANY**, **LUDWIG**, **MATTHEWS**, **MCCORMICK**, **RICH**, **SUMMERS**, **THERIAULT**, **TITCOMB**, **TWITCHELL**, **VOSE**, **WEBSTER**

**NAYS:** Senators **BALDACC**, **BOST**, **BUSTIN**, **CONLEY**, **MILLS**, **PEARSON**, **THE PRESIDENT** - **CHARLES P. PRAY**

**ABSENT:** Senators None

28 Senators having voted in the affirmative and 7 Senators having voted in the negative, with No Senators being absent, Committee Amendment "A" (S-666) **ADOPTED**.

Which was, under suspension of the Rules, **READ A SECOND TIME**.

On motion by Senator **CLARK** of Cumberland, Tabled 1 Legislative Day, pending **PASSAGE TO BE ENGROSSED AS AMENDED**.

Out of order and under suspension of the Rules, the Senate considered the following:

#### COMMITTEE REPORTS House

##### Ought to Pass As Amended

The Committee on **TAXATION** on Bill "An Act to Protect Taxpayer Rights by Amending the Taxpayer Bill of Rights and Making More Equitable Tax Penalty and Appeal Provisions"

H.P. 1583 L.D. 2233

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1260)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1260)**.

Which Report was **READ** and **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-1260) **READ** and **ADOPTED**, in concurrence.

Which was, under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED, As Amended**, in concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

#### COMMITTEE REPORTS House

##### Ought to Pass As Amended

The Committee on **STATE & LOCAL GOVERNMENT** on Bill "An Act to Restructure the Department of Administrative and Financial Services" (Emergency)

H.P. 1663 L.D. 2340

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1267)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1267)**.

Which Report was **READ** and **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-1267) **READ** and **ADOPTED**, in concurrence.

Which was, under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED, As Amended**, in concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

#### PAPERS FROM THE HOUSE Non-Concurrent Matter

"An Act to Authorize Bond Issues for Transportation and Public Infrastructure Capital Improvements and Other Activities Designed to Create and Preserve Jobs for Maine Citizens"

H.P. 1707 L.D. 2388

In Senate, March 9, 1992, **FAILED OF ENACTMENT**.

**RECALLED** from the Legislative Files pursuant to Joint Order H.P. 1762, in concurrence.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "E" (H-1262)** in **NON-CONCURRENCE**.

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Draft February 4, 1992

MAINE PUBLIC BROADCASTING CORPORATION  
BYLAWS

ARTICLE I  
The Corporation

Section 1. Name: The name of the corporation shall be the Maine Public Broadcasting Corporation ("Corporation"). The corporation may do business under the names Maine Public Television and Maine Public Radio and such other names as may be adopted from time to time by the Corporation.

Section 2. Corporate Powers: The corporate powers of Maine Public Broadcasting Corporation shall be vested in the Board of Trustees ("Board").

ARTICLE II  
The Board of Trustees

Section 1. Classes of Trustees: Until the first election of Public Trustees as provided in Section 3 below, the Board shall consist of the seven Institution Trustees as provided in Section 2 below. Thereafter, the Board shall consist of not fewer than sixteen or more than twenty Trustees. Seven of such Trustees shall be Institution Trustees as provided in Section 2 below ("Institution Trustees"). The President of the Corporation shall also be a member of the Board of Trustees. The remaining Trustees shall be Public Trustees elected by the Board of Trustees as provided hereinafter ("Public Trustees").

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Section 2. Institution Trustees: There shall be two categories of Institution Trustees.

- a. Four Trustees shall be those individuals holding the following offices from time to time: the Chancellor of the University of Maine System; the Presidents of Bates College, Bowdoin College, and Colby College.
- b. Three Trustees of the Corporation shall be elected by the University of Maine System ("University") Board of Trustees from among those currently serving as University Trustees, for staggered terms as that Board may designate.

Section 3. Public Trustees: At each Annual Meeting, the Board shall elect a class of not less than two or more than three Public Trustees, to serve for terms of four years, except the initial Public Trustees shall be elected as provided in Article VII, Section 1. Public Trustees shall be nominated and elected in accordance with the provisions of ARTICLE VII below.

Section 4. Limitation on Terms: Public Trustees may serve not more than two consecutive full terms, and thereafter may not stand again for election until one year has elapsed following the end of their second term.

Section 5. Vacancies: If a Public Trustee does not complete the term for which elected, for whatever reason, the Board, at any meeting, upon nomination of the Nominating Committee, may elect a new Trustee to fill the unexpired term. In like manner the Board may elect persons to fill any unfilled positions within a class of Public Trustees with less than its full complement. In all such cases, service for less than a full term shall not be included for purposes of the limitation of Section 4 respecting successive terms.

### ARTICLE III

#### Meetings of the Board

Section 1. Regular Meetings: The Board shall hold at least four regular meetings each year, including the Annual Meeting, at such times and places as the Board may determine. The Annual Meeting of the Board shall be held in April.

Section 2. Special Meetings: Special meetings of the Board may be held at any time at the request of at least five Trustees or upon the call of the Chair of the Board or the President of the Corporation. Notice of the time, place and purpose of any special meeting shall be given to all Trustees at least seven days in advance of any such meeting.

Section 3. Telephone Conference Meetings: Members of the Board of Trustees or of any committee designated thereby may participate in a meeting of the Board or of such committee by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and participating in a meeting in such manner by any Trustee shall constitute presence in person at such meeting.

Section 4. Quorum: Except as provided in Article IX, a majority of the voting members of the Board of Trustees shall constitute a quorum for the transaction of business at any meeting of the Board, and the action of a majority of such Trustees present and voting at such meeting shall be the act of the Board. Once properly convened, a meeting of the Board shall not be terminated for lack of a quorum thereafter.

Section 5. Public Attendance: To the extent required by the Public Telecommunications Financing Act of 1978, as amended, all meetings of the Board shall be open to the public. Reasonable notice of Board meetings shall be given to the public, pursuant to said Act.

## ARTICLE IV

### Committees of the Board

Section 1. Executive Committee: There shall be an Executive Committee of the Board, which shall consist of the Chair of the Board, who shall serve as chair of said Committee, the Vice Chair, the President, and two other Trustees who shall be elected by the Board upon nomination by the Nominating Committee. The Chancellor of the University of Maine and at least one of the Presidents of Bates, Bowdoin, or Colby Colleges shall serve on the Executive Committee, either as holders of the offices of Chair and Vice Chair, or by election to the other Trustee positions on that committee.

The Executive Committee shall meet at the call of the Chair and shall exercise such powers with respect to the conduct and management of the Corporation's affairs as have been delegated to it by the Board, except the election of Trustees. A majority of the members of the Executive Committee shall constitute a quorum for the transaction of business, and the action of a majority of such members present and voting shall be the act of the Committee.

Section 2. Nominating Committee: No less than 120 days before the Annual Meeting, the Chair shall appoint a Nominating Committee of not less than three or more than five Trustees, one of whom shall be designated as Chair of said Committee, for the purpose of nominating persons to be elected as Trustees, Officers and members of the Executive Committee of the Corporation. The Chair of the Board shall not be a member of the Nominating Committee.

Section 3. Additional Committees: The Chair of the Board may, from time to time, appoint additional committees with such powers and duties as the Board may prescribe, and the Board may delegate to any such committee or committees any or all of the powers of the Board which lawfully may be delegated. The Chair of the Board and the President shall be ex officio members of all such committees. Except as otherwise

provided in these Bylaws, members of a Committee need not be Trustees.

Section 4. Committee Meetings; Quorum: A majority of Committee members shall constitute a quorum for the transaction of business. The action of a majority of Committee members present and voting shall be the act of the Committee.

Section 5. Community Advisory Board: The Board shall establish a Community Advisory Board as required by the Public Telecommunications Financing Act of 1978, as amended, to advise it with respect to whether the programming and other policies of the Corporation are meeting the specialized educational and cultural needs of the communities served, and to make such recommendations as the Community Advisory Board considers appropriate to meet such needs.

Section 6. Auxiliary Bodies: The Board may establish from time to time such auxiliary bodies as it deems important to the general welfare of the Corporation, but may not delegate to any such body any of the powers of the Board.

## ARTICLE V

### Officers of the Corporation

Section 1. Designations: The officers of the Corporation shall be a Chair of the Board, a Vice Chair of the Board, a President, a Secretary, a Treasurer, and such assistant officers as the Board may from time to time deem proper. All of the above officers except the President shall be elected by the Board at its Annual Meeting and shall hold office for a term of one year or until their successors are elected and qualified. All officers except the President and any assistant officers shall be elected from among the members of the Board. The office of the President shall be filled as provided below in Section 4.



Section 2. Chair: The Chair of the Board shall preside at all meetings of the Board, and shall perform such other duties and have such other powers as may be prescribed by the Board or these Bylaws.

Section 3. Vice Chair: In the absence or disability of the Chair of the Board, the Vice Chair shall perform the duties of the Chair. The Vice Chair shall perform any other duties assigned by the Chair of the Board.

Section 4. President: The Board shall engage a President who shall serve at the pleasure of the Board upon such terms and conditions as may be agreed upon by the Board. The President shall be the chief executive officer of the Corporation, and shall exercise general supervision of the execution of the policies and objectives of the Corporation as determined by the Board. The President shall have the responsibility for the operation and management of the Corporation's facilities and activities, shall engage and supervise all personnel employed by the Corporation, and shall report directly to the Board. The President shall be a Trustee of the Corporation and shall attend all meetings of the Board and the Executive Committee except when excused therefrom by the Chair. The President shall have such other powers and duties as may be prescribed by the Board or these Bylaws.

Section 5. Secretary: The Secretary, or any Assistant Secretary in the absence of the Secretary, shall act as Secretary of and keep the minutes of all meetings of the Board and shall promptly submit copies to all Board members, shall cause notice of all such meetings to be given, shall have charge of the books, records and papers of the Corporation relative to its organization, shall affix the seal of the Corporation or cause it to be affixed to documents executed in behalf of the Corporation and shall attest to the same, and in general shall perform all duties incident to the office of Secretary and such other duties as may be prescribed by the Chairperson or the Board.

Section 6. Treasurer: The Treasurer, or any Assistant Treasurer in the absence of the Treasurer, shall have charge of the finances of the Corporation under the direction of the Board, shall approve the procedures for receiving and disbursing funds, and shall be responsible for the investment of funds in accordance with policies established by the Board. The Treasurer shall report the financial condition of the Corporation to the Board at each meeting.

Section 7. Other Duties and Powers: Officers of the Corporation shall perform such other duties and have such other powers as the Board from time to time may prescribe.

Section 8. Vacancies: A vacancy in any office may be filled by the Board for the balance of the term of such office, and the Executive Committee may fill any such vacancy on an interim basis until the next Board meeting.

Section 9. Compensation: Other than the President, Trustees and Officers of the Corporation shall receive no salary or compensation.

## ARTICLE VI

### Members

Section 1. Definition: Subject to Section 2, Members of the Corporation shall be those persons, including individuals and families (as the latter shall be defined by the Board), partnerships, associations and corporations, who are active subscribers to the programming service of the Corporation. "Active subscribers" shall be those who have paid the membership fee established from time to time by the Board.

Section 2. Member Status; Voting Rights: The Corporation shall have no "Members" within the meaning of Title 13-B of the Maine Revised Statutes. Members of the Corporation within the meaning of Section 1 shall have no voting rights.

## ARTICLE VII

### Election of Public Trustees

Section 1. Public Trustees: Eight initial Public Trustees shall be elected for staggered terms by a two-thirds vote of the founding Institution Trustees, who shall divide them into equal classes of two, with initial terms for such classes of one, two, three and four years. All subsequent terms and vacancies shall be filled by the following procedures: the Nominating Committee shall submit a list of nominees for Public Trustees to the Secretary at least five days prior to each Annual Meeting of the Board and any regular Board meeting at which election is proposed, and the notice of the meeting shall contain such list. A two-thirds vote of Trustees present and voting shall be necessary for election. To be eligible for nomination and election, a person must be a member of the Corporation.

Section 2. Membership Solicitation: Prior to submitting its list of nominees to the Annual Meeting of the Board, the Nominating Committee shall solicit from the Members suggestions for candidates suitable to serve as Public Trustees. The notice of such opportunity and the procedure to be followed shall be as determined by the Nominating Committee.

## ARTICLE VIII

### Miscellaneous Provisions

Section 1. Fiscal Year: The fiscal year of the Corporation shall commence on the first day of July and shall end on the thirtieth day of the following June.

Section 2. Authority for Disbursements: All checks, drafts, notes and orders for the payment of money shall be signed by such officers, employees or agents as the Board may designate from time to time.

Section 3. Audit: An annual audit of the Corporation's financial affairs shall be conducted by a certified public accountant to be designated annually by the Board.

Section 4. Seal: The seal of the Corporation shall be in such form as may be adopted by the Board.

Section 5. Non-Discrimination: The Corporation will comply in its activities with all Federal and State statutes governing non-discrimination.

Section 6. Indemnification: The Corporation shall, to the full extent of its power to do so provided by law, including without limitation Section 714 of Title 13-B of the Maine Revised Statutes Annotated, indemnify any and all present and former officers and Trustees of the Corporation against expenses, including attorneys' fees, judgments, fines and amounts paid in settlement actually and reasonably incurred by them in connection with any action, suit or proceeding in which they, or any of them, are made parties, or a party, by reason of their being or having been officers or Trustees of the Corporation; except in relation to matters as to which any such person shall be finally adjudicated in any such action, suit or proceeding not to have acted in good faith in the reasonable belief that his or her action was in the best interest of the Corporation, or, with respect to any criminal action or proceeding, where such person is finally adjudged to have had reasonable cause to believe that his or her conduct was unlawful. Such indemnification shall be made in accordance with the procedures set forth in Maine Revised Statutes Annotated, Title 13-B, Section 714, subsection 3, as the same may be amended from time to time. Such indemnification shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any other bylaw, agreement, or otherwise. Notwithstanding the foregoing provisions of this Section 6 or any other provision of these bylaws, however, the Corporation shall not, by granting any indemnity or otherwise, engage in any conduct which permits the inurement to any private individual

(within the meaning of Section 501 (c) (3) of the Internal Revenue Code of 1986, as amended from time to time, before or after the adoption of this Section 6) of any part of the net earnings of the Corporation.

#### ARTICLE IX

##### Amendment of Bylaws

Section 1. Amendment: Except as provided in Section 2, these Bylaws may be altered, amended or repealed by the Board at any regular or special meeting of the Board at which a quorum is present by the affirmative vote of Trustees constituting two-thirds of those then holding office, provided that notice of such purpose has been given and such notice sets forth the substance or text of the proposed alteration, amendment or repeal.

Section 2. Amendment of the Composition of the Board and Executive Committee: Amendment of this section, of Article II, Section 2 and of Article IV, Section 1, shall also require the concurrence of all seven Institution Trustees.



Upon the dissolution of the Corporation or the termination of its activities, the assets of the Corporation remaining after the payment of all its liabilities shall be distributed exclusively to one or more organizations organized and operated exclusively for such purposes as shall then qualify as an exempt organization or organizations under Section 501(c)(\_\_\_\_\_) of the Internal Revenue Code of 1986, as amended, and as a charitable, religious, eleemosynary, benevolent or educational corporation within the meaning of Title 13B, of the Maine Revised Statutes as amended.

EIGHTH: Other provisions of these articles, if any, including provisions for the regulation of the internal affairs of the corporation, and distribution of assets on dissolution or final liquidation:

Dated: February 7, 1992

Joyce A. Wheeler  
(signature)  
Joyce A. Wheeler

Street 2 Evergreen Drive

Yarmouth, Maine 04096

(city, state and zip code)

(type or print name)  
James B. Zimprich  
(signature)  
James B. Zimprich  
(type or print name)

Street 55 Cranbrook Drive

Cape Elizabeth, Maine 04107

(city, state and zip code)

(signature)

Street \_\_\_\_\_

(type or print name)

(city, state and zip code)

(signature)

Street \_\_\_\_\_

(type or print name)

(city, state and zip code)

(signature)

Street \_\_\_\_\_

(type or print name)

(city, state and zip code)

ATTACHMENT 1  
TO  
ARTICLES OF INCORPORATION  
OF  
MAINE PUBLIC BROADCASTING CORPORATION

A. Except as provided in paragraph B below, upon the dissolution of the Corporation or the termination of its activities, the assets of the Corporation remaining after the payment of all its liabilities shall be distributed exclusively as follows:

- (1) If said dissolution or termination occurs prior to December 31, 2001, the remaining assets of the Corporation that were transferred to it by the University of Maine System shall be distributed to the University of Maine System;
- (2) If said dissolution or termination occurs prior to December 31, 2001, the remaining assets of the Corporation that were formerly the property of Colby-Bates-Bowdoin Educational Telecasting Corporation shall be distributed in equal shares to Colby College, Bates College, and Bowdoin College; and
- (3) All other assets of the Corporation shall be distributed one-half to the University of Maine System and one-sixth to each of Colby College, Bates College and Bowdoin College, or successor institutions or if any or all of these said charitable and educational corporations are not in existence then the share of such extinct corporations shall be distributed to such charitable or exempt organizations (as defined in said Section 501(c)(3)) as the trustees of the Corporation may determine.

Amendment of subparagraphs (1), (2) and (3) of paragraph A shall require the concurrence of all seven "Institution Trustees" (as defined in the Corporation's Bylaws).

No part of the net earnings of the Corporation shall inure to the benefit of any member, director or officer of the Corporation, or any private individual (except that reasonable compensation may be paid for services rendered to or for the Corporation in carrying out one or more of its purposes), and no member, director, or officer of the Corporation, or any private individual, shall be entitled to share in the distribution of any of the corporate assets on dissolution of the Corporation.

B. If at the time of the dissolution of the Corporation any entity identified in the foregoing paragraph A is not either (1) described in Section 501(c)(3) of the Code or (2) an instrumentality of the State of Maine, the assets otherwise distributable to such entity pursuant to the foregoing paragraph A shall, notwithstanding the foregoing paragraph A, be distributed to such organization or organizations described in Section 501(c)(3) of the Code as the Directors of the Corporation may, by majority vote, determine.





# HOUSE OF REPRESENTATIVES

2 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0002

(207) 287-1400

TTY: (207) 287-4469

B

## Mary Pennell Nelson

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Falmouth, ME 04105  
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Cell Phone: (207) 831-6049  
E-Mail: [mpn3@maine.rr.com](mailto:mpn3@maine.rr.com)  
State House E-Mail:  
[RepMary.Nelson@legislature.maine.gov](mailto:RepMary.Nelson@legislature.maine.gov)

May 17, 2012

Sen. David R. Hastings, III

Rep. Joan M. Nass

Co-Chairs, Right to Know Advisory Committee

Re: Parental Privacy Issues in Maine Schools

Dear Sen. Hastings and Rep. Nass:

I understand that the Right to Know Advisory Committee will be convening this summer, to continue its consideration of matters relating to the Freedom of Access statute.

I would appreciate it if the Advisory Committee would consider an issue which has recently arisen in District 112. The Falmouth School Department has received a request from a citizen for the home e-mail addresses of all parents of students in the Falmouth school system. This request raises very serious confidentiality and privacy concerns for students, parents and their families.

As you may know, increasingly public schools are utilizing web-based student information systems, such as PowerSchool. These web-based portals connect students, teachers, administrators, and parents and provide parents and students with real-time information on grades, attendance, homework, scores, teacher comments, and school bulletins. Parents must provide their e-mail addresses so that they may gain access to their students' confidential education records through these portals and so that school officials may communicate electronically with parents about their children. These electronic communications are critical to providing parents with the opportunity to collaborate on their child's education by gaining access to student records and other important educational updates. The school department maintains parent e-mail addresses in the same secure, password-protected database used to maintain other confidential student/family information.

Because e-mail addresses and other electronic information are maintained in student education records, and are provided to enable parents to access those confidential records, the school department believes that they are confidential under the Federal Family Educational Rights and Privacy Act. However, this is not clear as a matter of Maine law, and I believe it is critical to clarify our statutes to ensure that the confidentiality of this and other sensitive parental information is maintained.

I intend to sponsor a bill in the upcoming legislative session to address this issue, but would also very much appreciate it if the Advisory Committee could consider the issue as part of its deliberations this summer.

Sincerely,

A handwritten signature in black ink, appearing to read "Mary P. Nelson", with a long, sweeping horizontal line extending to the right.

Mary Pennell Nelson  
State Representative

Judiciary Committee

June 13, 2012

RE: Request of Rep. Mary Nelson of Falmouth

I requested the email addresses of the parents in Falmouth because Superintendent Barbara Powers uses that set of addresses to promote a political agenda that is in opposition to others in the town that do not have access to that same list of Falmouth residents.

Powers has used the list to contradict paid political advertisements in the Forecaster newspaper at no cost to her and promoted answers that are believed to be intentionally incorrect to reinforce Powers political positions. This access reaches the parents of over 2,000 students and potentially over 4,000 voters in Falmouth. Last year the school's email system was used to alert recipients of "school friendly" candidates for the School Board election. Such access that has no counter weight is a danger to free and fair elections.

We know that technically it is possible to provide the addresses of the parents without including the student's addresses and this question posed by Rep. Nelson is a continuation of the ruse used by Falmouth that takes FOAA requests in directions that are not part of the request as an excuse to not provide the answer. We do not imply that Rep. Nelson is guilty of promoting the ruse but is being used by Falmouth due to her lack of knowledge of email technology and believing what Falmouth uses to mislead her.

A recent example of Falmouth's obstruction to the use of email addresses of Falmouth residents, we recently requested and received the list of town and police emails addresses. Instead of providing them in a digital format that would more easily lend itself to merging the lists and deleting duplicates and removing those addressees that didn't want to be on the list, Falmouth provided them on 55 printed pages.

If any adjustment to the FOAA law is made we ask that Maine School Systems be mandated to supply parents email address lists upon request.





## Reinsch, Margaret

---

**From:** Nathan Poore <npoore@town.falmouth.me.us>  
**Sent:** Wednesday, June 20, 2012 11:43 AM  
**To:** Reinsch, Margaret  
**Cc:** Harry R. Pringle  
**Subject:** FW: Web site news and notices posting [DWM-Client.FID389799]

Hi Peggy

It has been suggested that we forward this e-mail to the Advisory Committee. Can I rely on you to bring this to your next meeting and share with the group. It is another example of the abuse of FOAA. We hope that there can be some consideration for the proposed language developed by MMA that will exempt citizen e-mails which are used for important news alerts (one-way communication).

Best regards,

Nathan A. Poore, Town Manager  
Town of Falmouth  
271 Falmouth Road  
Falmouth Maine 04105

Telephone: 207-781-5253 ext 5314  
Email: [npoore@town.falmouth.me.us](mailto:npoore@town.falmouth.me.us)

Under Maine's Freedom of Access ("Right to Know") law, all e-mail and e-mail attachments received or prepared for use in matters concerning Town business or containing information relating to Town business are likely to be regarded as public records which may be inspected by any person upon request, unless otherwise made confidential by law.

-----Original Message-----

From: Tony Payne [<mailto:tpayne@clarkinsurance.com>]  
Sent: Tuesday, June 19, 2012 9:17 AM  
To: Nathan Poore  
Subject: RE: Web site news and notices posting

Nathan - May I suggest that you forward this with an explanation to Mal Leary and the FOIA advisory committee. Thanks.  
- Tony

Tony Payne | Business Development Director Clark Insurance | 2385 Congress St PO Box 3543 | Portland ME 04104-3543  
Tel: 207.523.2213 | Fax: 207.774.2994  
Cell: 207.807.5331

[www.clarkinsurance.com](http://www.clarkinsurance.com)  
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TO THE RECIPIENT: Information contained in this message is CONFIDENTIAL, proprietary, and/or protected by copyright. If the reader of this email is not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please notify Clark Insurance by calling (207) 774-6257, or by forwarding this message and attachments (if any) to

[info@clarkinsurance.com](mailto:info@clarkinsurance.com). You are further requested to help us protect the privacy of our customers and business partners by deleting all copies of this communication from your equipment and files. Thank you.

-----Original Message-----

From: Chris Orestis [<mailto:corestis@town.falmouth.me.us>]

Sent: Monday, June 18, 2012 11:37 PM

To: Nathan Poore; Council

Cc: Jennifer Phinney; Edward J. Tolan; Amy Lamontagne; 'William L. Plouffe'

Subject: RE: Web site news and notices posting

<http://www.falmouthtoday.me/>

WE HAVE A WINNER

June 18, 2012

By: Editor

We were looking for the most interesting request to be removed from the email list and we found a winner.

It was Allen Evans of 3 Fox Hall Rd., a 72 year-old resident of Falmouth, and he can be reached at 207.797.4571. His email is [ki4dhx@gmail.com](mailto:ki4dhx@gmail.com)<<mailto:ki4dhx@gmail.com>>, which is the use of his short wave radio call sign. He has used "not wanting to have any truck with you", which is something we haven't heard for some time, actually not in this century. So we give special kudos to Allen for the most inventive and angry request to get off the email list. Allen apparently is also in the radical far leftwing moon bat club with Pam Fenrich.

Now in our defense we have to disclose that Nathan Poore, Town Manager of Falmouth, supplied the email address list in a printed form instead of the digital format that would have allowed us to merge both lists and more easily delete those "Allen Evans" types that wanted to be deleted.

The printed list required a lot of work to get it into a useable format. That process will likely cause several more emails to be sent to people who already don't want to receive them because of what Nathan did to you. We are working at making these corrections to the problem caused by Nathan as quickly as we can and we apologize for the misconduct of the Town.

From: [ki4dhx@gmail.com](mailto:ki4dhx@gmail.com)<<mailto:ki4dhx@gmail.com>>

To: [seller99@msn.com](mailto:seller99@msn.com)<<mailto:seller99@msn.com>>

Subject: RE: UPCOMING ELECTION

Date: Mon, 11 Jun 2012 20:36:05 -0400

Remove me from your list immediately! You are a fat ass, bumbling, gadfly . a pox on our fair town. I want no truck with you.

-----Original Message-----

From: Michael Doyle [<mailto:seller99@msn.com>]

Sent: Monday, June 11, 2012 8:04 PM

To: [seller99@msn.com](mailto:seller99@msn.com)<<mailto:seller99@msn.com>>

Subject: UPCOMING ELECTION

Check [www.falmouthtoday.me](http://www.falmouthtoday.me)<<http://www.falmouthtoday.me>> and Comedy Corner

From: [seller99@msn.com](mailto:seller99@msn.com)<<mailto:seller99@msn.com>>

To: [ki4dhx@gmail.com](mailto:ki4dhx@gmail.com)<<mailto:ki4dhx@gmail.com>>

Subject: RE: UPCOMING ELECTION

Date: Mon, 11 Jun 2012 21:19:07 -0400

You're removed. However because of the way the Town sent your address to me (not digital) you may get several more emails while we work on eliminating dups and deletes.

Congratulations, you're in the lead for the most interesting removal email. We're going to do a story about the winner with their email address, name, and all sorts of fun stuff.

Have a great night.

Michael Doyle



# The Portland Press Herald

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June 21

## Falmouth looking into breach of town website

SHARE

Falmouth officials are investigating an Internet security breach that allowed a resident to post a public notice to the town's website this month.

The notice appeared on Falmouth's home page after town officials responded to a request for public information and released email addresses for all subscribers to the town's online notification system.

The incident has raised questions about Maine's Freedom of Access law and prompted calls for legislation that would allow people to prevent municipalities from releasing email addresses provided for similar services.

"It was a colossal goof," said Faith Varney, chairwoman of the Falmouth Town Council. "It never occurred to anyone that something like this would happen."

Town officials gave the subscribers' list to Michael Doyle on May 31, after he submitted a request under the Freedom of Access law, said Town Manager Nathan Poore.

Town officials believe the list included an email address that allows authorized people to post public notices about emergencies and special events, such as road closures and community gatherings.

The notice in question was posted June 9 in "News & Announcements" on the town's home page, Poore said. It encouraged readers to check out Doyle's controversial blog about Falmouth issues and events.

Poore saw the notice on June 10 and immediately blocked additional postings from that email address, which has since been changed.

"That email address was thought to be protected," Poore said. "It's not clear why it wasn't protected."

Doyle said he didn't intend to post a notice on the town's website. He acknowledged that it may have happened when he sent a notice about his blog to some of the more than 3,000 email addresses he received from the town's subscribers' list.

Doyle said he sought the subscribers' list because he's trying to gather and disseminate information about town government to Falmouth residents. "It's nothing nefarious," he said.

Poore said no other personal information from subscribers was released and no other aspects of the town's website were compromised, including links that allow business transactions through third-party administrators.

"We're confident nothing else got manipulated on the website," Poore said.



But the town's information technicians and its website provider, Virtual Towns and Schools, are reviewing the incident to determine exactly what happened, Poore said.

Poore also contacted the Maine Municipal Association to seek the group's support in pursuing legislation that would allow people to block cities and towns from releasing email addresses provided for municipal notification systems.

Poore said he has received dozens of questions and complaints about Doyle's unsolicited emails, though few have asked to be removed from the subscribers' list.

"People aren't signing up with us to get spammed," Poore said.

Poore said the exemption from the Freedom of Access law would apply only to email lists for public notification systems. It wouldn't restrict access to other communications received or sent by municipal officials, which are considered public information.

Geoff Herman, a lobbyist for the Maine Municipal Association, said Falmouth's website breach may have been the first of its kind in Maine.

However, he said, there is growing concern about commercial interests and advocacy groups accessing email lists held by public bodies.

In 2003, the Maine Department of Inland Fisheries and Wildlife got an exemption from the Freedom of Access law after receiving complaints that outside interests were using email addresses from hunting and fishing license applications to contact outdoorsmen. Now, the applications allow hunters and fishermen to indicate whether their email addresses are confidential.

Herman said the association's 70-member legislative policy committee will consider submitting a bill next year on behalf of Maine municipalities.

Doyle questions whether municipal email lists should be confidential.

"If you don't want your email address to be in the public domain, don't sign up for notifications from the town," he said.

*Staff Writer Kelley Bouchard can be contacted at 791-6328 or at:*

*kbouchard@pressherald.com*

**Tweet** 0

**Recommend** 0



## Judiciary Committee

June 21, 2012

### Committee Members:

This past week has been an interesting one for the FOAA law of Maine. I have discussed the proposed law that Rep. Mary Nelson will introduce this fall in an earlier memo.

This week there was considerable consternation in Falmouth when I requested and received the Town's email contact list for residents that wanted to be made aware of road closings, council meetings, etc. In the list of 3,129 email addresses was the all access email to post directly to the Town's notification site. This caused me to inadvertently send this notice through the Town's site to all addresses, "Check falmouthtoday.me and Comedy Corner." Nathan Poore, Town Manager, and his assistant Melissa Tyron specifically lied to me when I asked if such an all access address was available.

Poore was recently quoted in the Forecaster stating that the Maine Municipal Assoc. had been contacted to start a lobbying effort to bar access to these lists of emails in the State of Maine. When you couple that effort with the proposed Nelson legislation you will effectively close off communication with a large percentage of the population of the State. The only exception will be what the Towns, Cities, and Schools want to have disseminated to the citizens through their controlled outlets. This is contrary to transparency.

Forevermore this has become an information driven society and for democracy to work for everyone, access to the population through emails are crucial for the opposition to be heard and for both sides of an issue to be reviewed and considered by the voters.

Whatever false premises the proponents will use to promote this attack on the FOAA law, they must be rejected outright for what they are, an incremental reduction of the ability to insure we have as much transparency in government as possible.

Thank you for your time and consideration.



Michael Doyle  
3 Shady Ln.  
766.6644

C

APPROVED

CHAPTER

STATE OF MAINE

JUN 08 '11

264

BY GOVERNOR PUBLIC LAW

IN THE YEAR OF OUR LORD  
TWO THOUSAND AND ELEVEN

H.P. 817 - L.D. 1082

**An Act Concerning the Protection of Personal Information in  
Communications with Elected Officials**

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 1 MRSA §402, sub-§3, ¶C-1 is enacted to read:

C-1. Information contained in a communication between a constituent and an elected official if the information:

(1) Is of a personal nature, consisting of:

(a) An individual's medical information of any kind, including information pertaining to diagnosis or treatment of mental or emotional disorders;

(b) Credit or financial information;

(c) Information pertaining to the personal history, general character or conduct of the constituent or any member of the constituent's immediate family;

(d) Complaints, charges of misconduct, replies to complaints or charges of misconduct or memoranda or other materials pertaining to disciplinary action; or

(e) An individual's social security number; or

(2) Would be confidential if it were in the possession of another public agency or official;

→ Sec. 2. **Right To Know Advisory Committee.** The Right To Know Advisory Committee, as established in the Maine Revised Statutes, Title 1, section 411, subsection 1, shall examine the benefit of public disclosure of elected officials' e-mails and other records balanced with the availability of technology and other systems necessary to maintain the records and to provide public access. The Right To Know Advisory Committee's findings and any recommendations must be included in its 2012 annual report pursuant to Title 1, section 411, subsection 10.





Right to Know Advisory Committee  
Legislative Subcommittee  
DRAFT: Using technology to conduct public proceedings

**PART A**

**Sec. A-1. 1 MRSA § 403-A** is enacted to read:

**§403-A. Public proceedings through other means of communication**

This section governs public proceedings, including executive sessions, during which public or governmental business is discussed or transacted through telephonic, video, electronic or other means of communication.

**1. Requirements.** A body subject to this subchapter may conduct a public proceeding during which a member of the body participates in the discussion or transaction of public or governmental business through telephonic, video, electronic or other means of communication only if the following requirements are met.

A. The body has adopted a policy that authorizes a member of the body who is not physically present to participate in a public proceeding through telephonic, video, electronic or other means of communication in accordance with this section.

B. Notice of the public proceeding has been given in accordance with section 406.

C. A quorum of the body is assembled physically at the location identified in the notice required by section 406.

D. The physical attendance by each member who is participating from another location is not reasonably practical. The reason that each member's physical attendance is not reasonably practical must be stated in the record of the public proceeding.

E. Each member of the body participating in the public proceeding is able to simultaneously hear each other and speak to each other during the public proceeding. Members of the public attending the public proceeding in the location identified in the notice required by section 406 are able to hear all members participating from other locations.

F. Each member who is not physically present and who is participating through telephonic, video, electronic or other means of communication identifies the persons present in the location from which the member is participating.

G. All votes taken during the public proceeding are taken by roll call vote.

H. Each member who is not physically present and who is participating through telephonic, video, electronic or other means of communication has received prior to the public proceeding any documents or other materials that will be discussed at the public proceeding, with substantially the same content as those documents actually presented. Documents or other materials made available at the public proceeding may be transmitted to the member not physically present during the public proceeding if the transmission technology is available.

I. The public proceeding is not a public hearing.

**2. Voting.** A member of a body who is not physically present and who is participating in the public proceeding through telephonic, video, electronic or other means of communication may not vote:

A. On any issue for which materials providing additional information that may influence the member's decision are presented at the public proceeding but have not been provided to the member by the time of the vote; or

B. On any issue concerning testimony or other evidence provided during the public proceeding if it is a judicial or quasi-judicial proceeding.

**3. Exception to quorum requirement.** A body may convene a public proceeding by telephonic, video, electronic or other means of communication without a quorum assembled physically at one location if:

A. An emergency has been declared in accordance with Title 22, section 802, subsection 2-A or Title 37-B, section 742;

B. The public proceeding is necessary to take action to address the emergency; and

C. The body otherwise complies with the provisions of this section to the extent practicable based on the circumstances of the emergency.

**4. Annual meeting.** If a body conducts one or more public proceedings pursuant to this section, it shall also hold at least one public proceeding annually during which members of the body in attendance are physically assembled at one location and where no members of the body participate by telephonic, video, electronic or other means of communication from a different location.

Seek input of agencies before making legislative changes to statutory procedures below.

## PART B

### Finance Authority of Maine

**Sec. B-1. 10 MRSA §971** is amended to read:

#### **§971. Actions of the members**

Seven members of the authority constitute a quorum of the members. The affirmative vote of the greater of 5 members, present and voting, or a majority of those members present and voting is necessary for any action taken by the members. No vacancy in the membership of the authority may impair the right of the quorum to exercise all powers and perform all duties of the members.

Notwithstanding any other provision of law, in a situation determined by the chief executive officer to be an emergency requiring action of the members on not more than 3 days' oral notice, an emergency meeting of the members may be conducted by telephone in accordance with Title 1, section 403-A and the following.

**1. Placement of call.** A conference call to the members must be placed by ordinary commercial means at an appointed time.

**2. Record of call.** The authority shall arrange for recordation of the conference call when appropriate and prepare minutes of the emergency meeting.

**3. Notice of emergency meeting.** Public notice of the emergency meeting must be given in accordance with Title 1, section 406 and that public notice must include the time of the meeting and the location of a telephone with a speakerphone attachment that enables all persons participating in the telephone meeting to be heard and understood and that is available for members of the public to hear the business conducted at the telephone meeting.

### Ethics Commission (any changes?)

**Sec. B-2. 21-A MRSA §1002** is amended to read:

#### **§1002. Meetings of commission**

**1. Meeting schedule.** The commission shall meet in Augusta for the purposes of this chapter at least once per month in any year in which primary and general elections are held and every 2 weeks in the 60 days preceding an election. In the 28 days preceding an

election, the commission shall meet in Augusta within one calendar day of the filing of any complaint or question with the commission. Agenda items in the 28 days preceding an election must be decided within 24 hours of the filing unless all parties involved agree otherwise.

**2. Telephone meetings.** The commission may hold meetings over the telephone if necessary, as long as the commission provides notice to all affected parties in accordance with the rules of the commission and the commission's office remains open for attendance by complainants, witnesses, the press and other members of the public. Notwithstanding Title 1, chapter 13, telephone meetings of the commission are permitted:

- A. During the 28 days prior to an election when the commission is required to meet within 24 hours of the filing of any complaint or question with the commission; or
- B. To address procedural or logistical issues before a monthly meeting, such as the scheduling of meetings, deadlines for parties' submission of written materials, setting of meeting agenda, requests to postpone or reschedule agenda items, issuing subpoenas for documents or witnesses and recusal of commission members.

**3. Other meetings.** The commission shall meet at other times on the call of the Secretary of State, the President of the Senate, the Speaker of the House or the chair or a majority of the members of the commission, as long as all members are notified of the time, place and purpose of the meeting at least 24 hours in advance.

**4. Office hours before election.** The commission office must be open with adequate staff resources available to respond to inquiries and receive complaints from 8 a.m. until at least 5:30 p.m. on the Saturday, Sunday and Monday immediately preceding an election and from 8 a.m. until at least 8 p.m. on election day.

#### Emergency Medical Services Board

**Sec. B-3. 32 MRSA §88, sub-§1, ¶D** is amended to read:

#### **§88. Emergency Medical Services' Board**

The Emergency Medical Services' Board, as established by Title 5, section 12004-A, subsection 15, is responsible for the emergency medical services program.

**1. Composition; rules; meetings.** The board's composition, conduct and compensation are as follows.



A. The board has one member representing each region and 11 persons in addition. Of the additional persons, one is an emergency physician, one a representative of emergency medical dispatch providers, 2 representatives of the public, one a representative of for-profit ambulance services, one an emergency professional nurse, one a representative of nontransporting emergency medical services, one a representative of hospitals, one a representative of a statewide association of fire chiefs, one a municipal emergency medical services provider and one a representative of not-for-profit ambulance services. The members that represent for-profit ambulance services, nontransporting emergency medical services and not-for-profit ambulance services must be licensed emergency medical services persons. One of the nonpublic members must be a volunteer emergency medical services provider. Appointments are for 3-year terms. Members are appointed by the Governor. The state medical director is an ex officio nonvoting member of the board.

B. The board shall elect its own chair to serve for a 2-year term. The board may adopt internal rules that may include, but are not limited to, termination of board membership as a consequence of irregular attendance. If a board member does not serve a full term of appointment, the Governor shall appoint a successor to fill the vacancy for the remainder of the term. Any board member may be removed by the Governor for cause. The board may have a common seal. The board may establish subcommittees as it determines appropriate.

C. The board shall meet at least quarterly, and at the call of its chair or at the request of 7 members. When the board meets, members are entitled to compensation according to the provisions of Title 5, chapter 379.

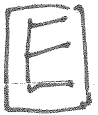
D. A majority of the members appointed and currently serving constitutes a quorum for all purposes and no decision of the board may be made without a quorum present. A majority vote of those present and voting is required for board action, except that for purposes of either granting a waiver of any of its rules or deciding to pursue the suspension or revocation of a license, the board may take action only if the proposed waiver, suspension or revocation receives a favorable vote from at least 2/3 of the members present and voting and from no less than a majority of the appointed and currently serving members. The board may use video conferencing and other technologies in compliance with Title 1, chapter 13, subchapter 1, to conduct its business but is not exempt from Title 1, chapter 13, subchapter 1. Members of the board, its subcommittees or its staff may participate in a meeting of the board, subcommittees or staff via video conferencing, conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting pursuant to this subsection constitutes presence in person at such meeting.

## Workers' Compensation Board

**Sec. B-4. 39-A MRSA §151, sub-§5** is amended to read:

**5. Voting requirements; meetings.** The board may take action only by majority vote of its membership. The board may hold sessions at its central office or at any other place within the State and shall establish procedures through which members who are not physically present may participate by telephone or other remote-access technology in compliance with Title 1, chapter 13, subchapter 1. Regular meetings may be called by the executive director or by any 4 members of the board, and all members must be given at least 7 days' notice of the time, place and agenda of the meeting. A quorum of the board is 4 members, but a smaller number may adjourn until a quorum is present. Emergency meetings may be called by the executive director when it is necessary to take action before a regular meeting can be scheduled. The executive director shall make all reasonable efforts to notify all members as promptly as possible of the time and place of any emergency meeting and the specific purpose or purposes for which the meeting is called. For an emergency meeting, the 4 members constituting a quorum must include at least one board member representing management and at least one board member representing labor.

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Sec. X. XX MRSA §XXX-X, as amended by PL XXXX, c. XXX, §XX and affected by §XX, is repealed.

Sec. X. XX MRSA §XXX-X is enacted to read:

**§ XXX-X. Freedom of access; confidentiality of records**

The records of the [board, agency, authority, etc.] are public records, except as specifically provided in this section.

**1. Confidential records.** The following records are designated as confidential:

A. Records containing any information acquired by the [board, agency, authority, etc.] or a member, officer, employee or agent of the [board, agency, authority, etc.] from an applicant for or recipient of financial assistance provided pursuant to a program administered or established by the [board, agency, authority, etc.] is confidential for purposes of Title 1, section 402, subsection 3, paragraph A if the applicant or recipient is an individual.

B. A record obtained or developed by the [board, agency, authority, etc.] that:

(1) A person, including the [board, agency, authority, etc.], to whom the record belongs or pertains has requested be designated confidential; and

(2) The [board, agency, authority, etc.] has determined contains information that gives the owner or a user an opportunity to obtain business or competitive advantage over another person who does not have access to the information, except through the record, or access to which by others would result in a business or competitive disadvantage, loss of business or other significant detriment to any person to whom the record belongs or pertains.

C. A financial statement or tax return.

D. A record that contains an assessment by a person who is not employed by the [board, agency, authority, etc.] of the credit worthiness or financial condition of any person or project.

E. A record obtained or developed by the [board, agency, authority, etc.] prior to receipt of a written application or proposal if the application or proposal is for financial assistance to be provided by or with the assistance of the [board, agency, authority, etc.], or in connection with a transfer of property to or from the [board, agency, authority, etc.]. After receipt by the [board, agency, authority, etc.] of the application or proposal, a record pertaining to the application or proposal is

## RTK AC General Agency Confidential Individual and Business Records Template

not to be considered confidential unless it meets the requirements of the other paragraphs of the subsection.

The [board, agency, authority, etc.] shall provide to a legislative committee, on written request signed by the chairs of that committee, any information or record, including information designated confidential under this subsection, specified in the written request. The information or record may be used only for the lawful purposes of the committee and in any action arising out of any investigation conducted by the committee and may not be released for any other purpose.

**2. Exceptions.** Notwithstanding subsection 1, the following are public records and are not confidential:

A. Any otherwise confidential information the confidentiality of which the [board, agency, authority, etc.] determines to have been satisfactorily and effectively waived;

B. Any otherwise confidential information that has already lawfully been made available to the public; and

C. Impersonal, statistical or general information.

**3. Disclosure prohibited; further exceptions.** A person may not knowingly divulge or disclose records designated confidential by this section, **except that the [board, agency, authority, etc.], in its discretion and in conformity with legislative freedom of access criteria** in Title 1, chapter 13, subchapter 1A, may make or authorize any disclosure of information of the following types or under the following circumstances:

A. If necessary in connection with processing any application for, obtaining or maintaining financial assistance for any person;

B. Information requested by a financing institution or credit reporting service;

C. Information necessary to comply with any federal or state law or rule or with any agreement pertaining to financial assistance;

D. If necessary to ensure collection of any obligation in which the [board, agency, authority, etc.] has or may have an interest;

E. In any litigation or proceeding in which the [board, agency, authority, etc.] has appeared, introduction for the record of any information obtained from records designated confidential by this section;

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F. Pursuant to a subpoena, request for production of documents, warrant or other order by competent authority, as long as the order appears to have first been served on the person to whom the confidential information sought pertains or belongs and as long as the order appears on its face or otherwise to have been issued or made upon lawful authority; and

G. If necessary in connection with acquiring, maintaining, or disposing of property.

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